



TOWN *of* HANOVER

Trustees of Trust Funds Reference Manual

January 2009 (rev. June 2011)

Town of Hanover Trustees of Trust Funds
Reference Manual
Table of Contents

General Information and Policies

Overview of Duties.....	3
Trustee Calendar.....	4
Public Information and Right-to-Know Laws.....	5
Board Terms and Election.....	5
Town Staff Responsibilities.....	5

Investment Policy

Annual Review.....	6
General Concepts.....	6
Investment of Private vs. Public Funds.....	7
Professional Investment Management.....	8
Current Investment Policy Statement.....	9

Transaction Processing – Deposits to and Withdrawals from Funds

Authority to Request Transactions.....	12
Forms Utilized and Documentation Required.....	12
Blank Deposit Transmittal Form.....	13
Blank Withdrawal Transmittal Form.....	14
Timing of Transactions.....	15
Lapsing of Transaction Authority.....	15
Letter from Municipal Attorney re: Lapse of Authority.....	16

Oversight from NH Office of Attorney General – Charitable Trusts Unit

Oversight Role and Contact Information.....	18
Annual State Reporting.....	18
MS-9 Report of Trust and Capital Reserve Funds.....	19
MS-10 Report of Common Trust Fund Investments.....	21

Summary Fund Listing

Information for Funds Overseen by Trustees of Trust Funds.....	23
--	----

**Town of Hanover Trustees of Trust Funds
Reference Manual
Table of Contents**

Annual State Reports

Notes on MS-9 Preparation.....	33
Internal Monthly MS-9 Sample Reports (1 month, 12 months).....	36
MS-9 Report of Trust and Capital Reserve Funds (most recent).....	38
MS-10 Report of Common Trust Fund Investments (most recent).....	44
Annual Reporting to Other Agencies.....	45

Trustee Correspondence and Historic Issues of Note

Dresden School District Funds

Excerpts from Trustee Meeting Minutes.....	58
June 17, 2003 Trustee Letter to Attorney Bradley.....	60

Bridgman Fund – Hanover School District

May 24, 2005 Letter from Superintendent Gerson.....	61
Bridgman Fund Disbursement Certification Sample Form.....	62
February 23, 2005 Letter from Municipal Attorney.....	63
February 18, 2005 Letter to Municipal Attorney from Trustees	66
January 14, 2005 Letter from School District Attorney.....	70

2004 Funds Revaluation Project – Improper Commingling of Funds

Excerpts from Trustee Meeting Minutes.....	73
August 2004 Letter to NH Office of AG – Charitable Trusts.....	75
Trustee Resolution Adopted June 15, 2004.....	77
Timeline of Events re: Actions to Resolve Historic Funds	
Valuation Issues (with Appendices).....	79
March 17, 2004 Staff Report to Trustees.....	102

Lapse of Authority to Disburse Funds

Letter from Municipal Attorney dated April 1, 2004.....	105
---	-----

NH Charitable Trusts Unit – Presentation Slides – “Prudent Investing for Trustees of Trust Funds”.....(new series of page numbers)

NH Charitable Trusts Unit – Handbook for Trustees of Trust Funds

.....(new series of page numbers)	
-----------------------------------	--

Town of Hanover

Trustees of Trust Funds

General Information and Policies

Duties and Responsibilities of the Trustees of Trust Funds

Overview of Duties

- Invest funds prudently
- ‘Watchdog’ ins and outs of funds
- Adopt Investment Policy annually
- Annual fund reporting to the State

The basic duties of the Trustees of Trust Funds (the “Trustees”) involve the collection, management and investment of trust and capital reserve assets, and the accumulation and distribution of income and principal amounts according to the trust/gift instrument or the Town/School District Meeting authority. The authority to administer Town trust funds is vested solely with the Trustees and the income from such funds cannot be remitted to the Selectmen for purposes contrary to the judgment of the Trustees. Trust funds include private gifts/bequests that have been accepted by the Selectmen, capital reserve funds, and trust funds that have been created at Town Meeting or at the Hanover School District Meeting.

Trust funds do not include the general working capital of the Town or bond proceeds; the Town Treasurer is responsible for cash management and investment of these assets.

Although the Trustees of Trust Funds oversee the perpetual trust funds created for ongoing cemetery maintenance, the Trustees are **not** responsible for the planning, development, care and maintenance of the Town’s cemeteries. The Town of Hanover has no elected Board of Cemetery Trustees; instead, the responsibilities of this elected body have been delegated to the Town Manager.

Included in this reference manual is a Summary Fund Listing providing information on the various funds under the fiduciary responsibility of the Trustees. To the extent that it is available, original documentation is on file in the Town offices or is archived at Rauner Library, the Special Collections Library at Dartmouth College.

Trustee Calendar

Schedule	Item/Task
As Required	Transaction Authorization – Trustees formally act upon requests for funds disbursements and/or contributions.
Semi-Annually (January and August meetings)	Investment Performance Review
Annually (January)	Trustees attend Hanover School District meeting to provide general information about the Bridgman Fund, a large expendable Hanover School District fund administered by the Trustees of Trust Funds similar to the perpetual funds.
Annually (January meeting)	Investment Advisor Review – specific review of performance, personnel, strategy, research capabilities, organizational and business matters; determine whether request for proposal process should be undertaken.
Annually (late March, early April)	Town staff to contact SAU #70 office for copies of Hanover School District annual meeting minutes for information about action taken involving reserve and other trust funds. Town staff with cc: to Trustees to update Investment Advisor on upcoming year's not to exceed Bridgman Fund cash requirements.
Annually (April meeting)	Review draft warrant for Town Meeting for preview of any articles regarding capital reserve or other trust funds. The Trustees' review is advisory only as the Trustees do not hold decision-making authority over the language of the warrant articles.
Annually (April meeting)	Discuss Trustee position expiring in May – determine whether incumbent is running; identify and recruit, as necessary.
Annually (mid-June meeting)	Review and adopt Investment Policy; Investment Policy filed annually with the NH Office of Attorney General – Charitable Trusts Division
Annually (meeting following May Town Meeting)	Trustees elect chair
Annually (May-June)	Annual Trustee Workshops hosted by New Hampshire Office of Attorney General – Charitable Trusts Division
Annually (late July)	Town staff to provide annual reports on Trustees' behalf to entities who have funds in custody of Trustees of Trust Funds (e.g., Dresden School District, Hanover School District, Etna Library Trustees, Town of Hanover Conservation Commission)
Annually (late August meeting)	Review annual reports to be filed no later than September 1 with the NH Attorney General's Office – Charitable Trusts Division: MS-9, Report of Trust Funds, and MS-10, Report of Common Trust Investments. Town staff prepares the MS-9 and works with investment advisor to generate the MS-10.
Annually (late August meeting)	Determine reasonable disbursement from Bridgman Fund to advise Hanover School District – usually \$40,000 +/-, depending upon accumulated income balance and previous years' earned income.

Public Information and Right-to-Know Laws

The Trustees, as a public body, are required to have open meetings under the law. As such, Trustee meetings are open to anyone, not just local residents. Meeting attendees may take notes, tape record or video, and take photographs; however, the Right-to-Know Law does not grant anyone the right to speak at the meeting. The Right-to-Know Law assures a right to attend, but does not guarantee a right to participate. Of course, public input may be invited a/o encouraged by the Trustees, at their discretion.

Trustee meetings must be noticed to the public at least twenty-four hours before the meeting (not counting Sundays and holidays). Meeting minutes must be kept of all public meetings and must be available within six days from the meeting.

Board Terms and Election

The makeup of the Board of Trustees of Trust Funds is determined by RSA 31:22. There shall be three Trustees, unless Town Meeting votes to expand the Board to five Trustees. One Trustee shall be elected by a ballot each annual Town Meeting for a term of three years. Residents interested in serving as Trustees file with the Town Clerk's Office a month or so before Town Meeting so their name will appear on the Town Meeting ballot. Off-term vacancies shall be filled by the Selectmen.

The Board of Trustees of Trust Funds shall elect a chair at their first meeting following Town Meeting; generally, this position has been filled by the most senior Trustee.

Town Staff Responsibilities

The Director of Administrative Services provides the Town staff support to the Board of Trustees of Trust Funds. Representative duties of Town staff include:

- Archive Trustee records with Town records
- Post and reconcile all financial activity to the Town's accounting records
- Prepare annual financial audit schedules and act as point person for annual audit of trust fund financial records
- Prepare MS-9, Report of Trust Funds; review MS-10, Report of Common Trust Investments (prepared by Investment Manager); prepare both forms for Trustee signatures; subsequent mailing and distribution
- Prepare monthly MS-9 schedules to identify the market values month-by-month so that any gains or losses are allocated to an individual fund on a rolling basis (vs. lump sum allocation at year-end, regardless of timing of additions to or withdrawals from funds)
- Prepare transaction request information for all contributions and disbursements
- Record and publish meeting minutes
- Schedule and notice meetings

Investment Policy

Annual Review

The Trustees must adopt an Investment Policy annually; a copy of the most recently adopted Investment Policy is attached. State law reads: “The [T]rustees shall formally adopt an investment policy for all investments made by them or by their agents for any trust funds in their custody in conformance with the provisions of applicable statutes. Such investment policy shall be reviewed and confirmed at least annually. A copy of the investment policy shall be filed with the attorney general.”

General Concepts

In addition to the statutory requirements governing investment vehicles detailed in RSA 31:25 (for which the Trustees rely on outside investment management advice to insure compliance), there are some general concepts that have governed the way in which the Trustees have invested the Town’s funds:

1. Public funds, those created by the raising of taxes or the levying of user fees by the Town, cannot be commingled with private sources of funds (i.e., bequests, gifts, etc.).
2. Private expendable (i.e., current use gifts) funds should not be commingled with perpetual (i.e., endowment-type gifts) funds.
3. Expendable trust funds should not be invested in equities (9/5/2002 meeting minutes).

	Gift Principal Not Expendable – Only Income to be Used	Fully Expendable
Private Funds – funded from private sources	<p><u>Investment Manager (currently Bank of America)</u></p> <ul style="list-style-type: none"> • Cemetery Perpetual Trust Funds • Other Perpetual Trust Funds to Benefit the Etna Library, the Poor, the Hanover School District • Bridgman Fund – Although the gift instrument indicates this fund is fully expendable, due to its size and restrictive nature, this gift is considered a ‘quasi-endowment’ fund by the Hanover School District. 	<p><u>NH Public Deposit Investment Pool</u></p> <ul style="list-style-type: none"> • Current Use Gifts from Individuals
Public Funds – funded through a Town Meeting appropriation	<u>None</u>	<p><u>NH Public Deposit Investment Pool</u></p> <ul style="list-style-type: none"> • Capital Reserve Funds established for a variety of capital improvements, property reappraisal, land acquisition, etc. as allowed by RSA 3:1 • Expendable Trust Funds created for the maintenance and operation of the Town, or for any other public purpose, as Authorized by RSA 3:19-a.

Professional Investment Management

As allowed under NH RSA 31:38-a, the Trustees have engaged an investment advisor to assist with (a) prudent and advantageous investment decisions; (b) compliance with State law as to what investment vehicles are allowed or not allowed; and (c) preparation of the annual reports necessary to be filed with the State.

The current Investment Policy calls for an annual review of the professional investment advisor. This review shall consider investment performance, personnel, strategy, research capabilities, and other such factors. Further, the investment advisory agreement shall be put out to bid no less frequently than every five years.

The investment advisory agreement currently in place was negotiated in the winter of 2002 and was awarded to Bank of America. Our account is serviced by two professionals:

Anthony J. Abbate, CFA
Vice President, Portfolio Manager
U.S. Trust, Bank of America Private Wealth Management
63 South Main Street
Hanover, NH 03755
Direct Phone: (603) 643-0975
Toll Free: (877) 863-2667
Fax: (603) 643-0919
anthony.j.abbate@ustrust.com

Michael S. Wrenn
Philanthropic Relationship Manager
Bank of America
1155 Elm Street
MS NH2-130-03-05
Manchester, NH 03101
Tel: 603-647-7651
Fax: 603-647-3722
michael.s.wrenn@bankofamerica.com

Town of Hanover
Trustees of Trust Funds
Investment Policy Statement
Adopted by Trustees of Trust Funds June 15, 2009

Pursuant to NH RSA 34:5, NH RSA 35:9, and in accordance with the Prudent Investor Rule under NH RSA 564 B:9-901 - NH RSA 564 B:9-906, the Trustees of Trust Funds of the Town of Hanover (Trustees) adopt this investment policy statement for the prudent investment of the funds under their jurisdiction.

I. Public Funds

- A. Trust Funds Created by Towns pursuant to RSA 31:19-a. Funds raised from public monies for the maintenance and operation of the town and other public purposes shall be invested in the New Hampshire Public Deposit Investment Pool (PDIP) established pursuant to RSA 383:22. Each fund shall be kept in a separate account and not intermingled with other funds of the town.
- B. Reserve Funds. Capital and other reserve funds appropriated pursuant to the provisions of Chapters 34 and 35 RSA shall be invested in the PDIP. Each fund shall be kept in a separate account and not intermingled with other funds of the town.

II. Private Funds

- A. Nonexpendable (endowment type) funds raised from private sources pursuant to RSA 31:19, 31:20 and 31:21, such as privately donated gifts, legacies, and devises made to the town or school district, and accepted by it, for the establishment, maintenance, and care of libraries, reading rooms, schools, and other educational facilities, parks, cemeteries, and burial lots, the planting and care of shade and ornamental trees upon their highways, and other public places, and for any other public purpose not foreign to or incompatible with the objects of the Town of Hanover or the Hanover School District shall be invested under the following guidelines:

1. Investment Strategy. All such non-expendable funds shall be invested on a total return basis; that is, the aggregate return from capital appreciation and dividend and interest income. Such funds may be invested in a common trust fund. The specific investment objective is to exceed the long-term rate of inflation (as measured by the CPI) by 3.0%. The goal of the Fund's equity component is to exceed the S&P 500 Index total return over a full market cycle. The Trustees may look at full market cycle as "trough to trough" or

“peak to peak.” The goal of the Fund’s fixed income component is to exceed the return of the Lehman Brothers Intermediate Government/Credit Index over a full market cycle.

2. Asset Allocation Guidelines. Investment management of the Fund shall be in accordance with the following broad asset allocation guidelines at market value:

<u>Asset Class</u>	<u>Minimum</u>	<u>Maximum</u>	<u>Preferred</u>
Equities	55%	65%	60%
Fixed Income	35%	45%	40%

3. Risk. The portfolio shall display an overall level of risk which is consistent with the risk associated with the above stated benchmarks.

4. Time Horizon. The fund has a perpetual time horizon.

5. Constraints. The Fund shall comply with the provisions of RSA 31:25. Exchange Traded Funds may be used as the investment vehicle in order to provide prudent diversification of investments for a relatively small pool of assets.

B. Expendable funds. All expendable funds will be invested in the PDIP. Each fund shall be kept in a separate account and not intermingled with other funds.

C. Bridgman Fund. The Bridgman Fund was created under the will of Don S. Bridgman. Pursuant to order of the Grafton County Probate Court entered June 3, 1997, the Hanover School District was confirmed as the beneficiary of the terminated trust. Distributions from the Bridgman Fund are at the discretion of the Hanover School Board, except that the assets will not be used “to relieve others from contributing their just share to the support and maintenance of the public schools, but to afford advantages in addition thereto.” Although technically an expendable fund, the Hanover School Board has formally adopted a policy of treating the corpus of the Bridgman Fund as an endowment, and has limited its annual distributions from the fund to no more than 5% of the principal value. The Hanover School Board has requested that the Trustees of Trust Funds manage the fund as an endowment with an investment policy similar to what the Trustees apply to nonexpendable private funds. Because of its disproportionate size in relation to the other private nonexpendable funds managed by the Trustees, the Trustees have chosen to keep the Bridgman fund as a separate fund and not intermingle it with the other private nonexpendable funds. The Bridgman Fund shall be managed with the same investment policy as nonexpendable funds as set forth in II A.

- III. Professional Banking and Brokerage Assistance. The Trustees may retain a professional Investment Advisor pursuant to the provisions of RSA 31:38 to assist the trustees in the prudent management and investment of trust fund assets and to provide ancillary bookkeeping services. The investment advisory agreement shall be put out to bid no less frequently than every five years, and preferably, every three years. The investment manager shall supply the Trustees with performance reports on a quarterly basis. The investment performance of the total portfolios, as well as asset class components, will be measured against commonly accepted performance benchmarks. The Investment advisor shall be reviewed at least annually regarding performance, personnel, strategy, research capabilities, organizational and business matters, and other qualitative factors that may impact its ability to achieve the desired investment results.
- IV. Investment Policy Review. The trustees will review this investment policy statement on an annual basis in June of each year to assure the continued relevance of these guidelines and objectives.

Transaction Processing – Deposits to and Withdrawals from Trust and Capital Reserve Funds

Authority to Request Transactions

For trust funds created from private monies, the gift or trust instrument controls any activity in and out of the fund. Generally, Town staff will requisition funds from such accounts with a brief statement on how the purpose for which the funds are being requested fulfills the donor's intended purpose. The Trustees have ultimate discretion over whether the intended purpose has been met, or not.

For capital reserve funds and expendable trust funds created with public monies, there must be a Town Meeting action or School District action authorizing the creation of the fund and outlining how these funds are to be spent. Town or School District Meeting may also name the Select Board or the School Board 'agents to expend' enabling these entities to request disbursements from these funds. Without such an action, there must be a Town Meeting or a School District Meeting vote to support any disbursement request from such public funds.

Forms Utilized and Documentation Required

The Trustees have established procedures that require that a Withdrawal or Contribution request be accompanied by supporting documentation and a transmittal form for them to sign if the transaction is authorized. This process allows for each authorized Trustee Withdrawal or Contribution to stand on its own in the archives. Vouchers (i.e., purchase orders, invoices, etc.) should always document any withdrawal of funds. Attached are copies of the current blank transmittal forms.



TRUSTEES OF TRUST FUNDS DEPOSIT TRANSMITTAL

Date:

Funds to be deposited to:

Funds to be used for:

Amount:

Sources of Funds:

Public or Private Fund Source?	Public	Private
Principal Expendable?	No	Yes

Notes regarding investment horizon:

Does the fund already exist? No Yes

If yes, the fund reference is:

If no, the authority to create the fund is attached and summarized here: _____

Additional Notes: _____

Authorized Signers: _____ Date: _____
Brian C. Doyle

Date: _____

Paul B. Gardent

Date: _____

Judson T. Pierson



TRUSTEES OF TRUST FUNDS WITHDRAWAL TRANSMITTAL

Date: __

Funds to be withdrawn from: __

Funds held at: __

Amount: __

Sources of Funds: __

Public or Private Fund Source? Public Private

Withdrawal Authority: __

Additional Notes: __

Authorized Signers: _____

Brian C. Doyle

Date: _____

Paul B. Gardent

Date: _____

Judson T. Pierson

Date: _____

Timing of Transactions and Lapsing of Authority

There are some general concepts governing the timing of transactions into and out of public funds:

- Transfers into capital reserve funds must be drawn after July 1, but no later than June 30, of the fiscal year for which the sum was appropriated. For example, if such an action occurs at the May 2008 Town Meeting (where the budget is considered for the fiscal year running July 1, 2008 through June 30, 2009), the Trustees must receive funds to be contributed to the fund by June 30, 2009.
- Transfers of any accumulated surplus to capital reserve or expendable trust funds must occur no later than within 10 days of the determination of the surplus following the close of the fiscal year (that is, by July 10 given the June 30 fiscal year-end, directly following the May Town Meeting). (Note: The Town of Hanover has followed this practice for the last several years.)
- Withdrawals from capital reserve funds must explicitly be non-lapsing (for up to five years) in the warrant article or must occur no later than June 30 of the fiscal year for which the sum was appropriated. Absent any non-lapsing language, the Trustees will not disburse funds after the end of the appropriation fiscal year. This lapsing period can be extended if the Town can demonstrate that a legally enforceable contract exists requiring the Town to make payment of such funds for the purposes approved at Town Meeting.

It has been common practice for the Town to make its contributions to and withdrawals from its capital reserve funds concurrently sometime in June. For archives purposes and to avoid confusion, these transactions (where there is a contribution to and a withdrawal from the same specific capital reserve fund) should not be netted against each other.

MITCHELL & BATES PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246

WALTER L. MITCHELL
TIMOTHY BATES
JUDITH E. WHITELAW
LAURA A. SPECTOR

TELEPHONE (603) 524-3885
FACSIMILE (603) 524-0745

April 1, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

Elizabeth A. McClain, Director
Administrative Services
P.O. Box 483
Hanover, NH 03755

Re: Lapse of Authority to Disburse from Permanent Funds

Dear Betsy:

This letter will respond to the questions raised in your letter dated March 22, 2004. As we discussed, it is my opinion that a town meeting vote to authorize the withdrawal of monies from a permanent fund, such as a town-created expendable trust fund or capital reserve fund, is subject the lapse provisions found in RSA 32:7. Under the statute, one of the circumstances that will prevent a lapse of the appropriation/withdrawal authority is where the amount has, prior to the end of that fiscal year, become encumbered by a legally enforceable obligation, created by contract or otherwise, to any person for the expenditure of the amount appropriated. See RSA 32:7, I.

Fortunately, in each of the three instances you describe in your letter it is clear that the monies appropriated from the relevant town funds were, indeed, encumbered within the meaning of RSA 32:7, I prior to the end of the applicable fiscal year. It is therefore my opinion that the appropriation of those funds has not lapsed, and that the trustees of trust funds may lawfully disburse those funds for their respective intended purposes upon the presentation of such supporting documentation as the trustees may reasonably require.

On behalf of the trustees, you also ask for my opinion as to when it would be "too late" for these funds to be disbursed. It is my opinion that as long as the original appropriation made by the town meeting has not lapsed pursuant to RSA 32:7, I (or through the operation of some other of the statutory lapse provisions) the trustees have the authority, and the obligation, to make the requested disbursement upon the presentation of proper supporting documentation. That is to say, the authority to disburse is coextensive with the continued vitality of the appropriation. Where, as here, the funds have been encumbered by the creation of a legally enforceable obligation to expend all or part of those funds, the trustees' authority and obligation to disburse would continue unless and until the obligation was fulfilled, or cancelled.

Elizabeth A. McClain, Director
April 1, 2004
Page 2

The trustees also seek guidance about what documentation they should require from the town before disbursing funds. I must respectfully decline to offer specific views about this, as I think it is a question that should more appropriately be put to the Division of Charitable Trusts of the Attorney General's Office. As a general matter, I do not think the trustees can go too far wrong if the documents presented would appear to a reasonably prudent person to establish that the request for disbursement is, in fact, for the purpose for which the withdrawal from the fund was voted by the town meeting. Exactly what documentation may be reasonably requested would likely vary from one situation to the next.

I hope this opinion is responsive to your inquiry. Please let me know if we may offer any further assistance with this matter.

Thank you.

Sincerely,



Timothy Bates
tblaw@metrocast.net

TB/dbm

cc: Julia N. Griffin, Town Manager

Oversight by NH Department of Attorney General – Charitable Trusts Unit

Oversight Role and Contact Information

Terry M. Knowles is the Registrar of the Charitable Trusts Unit of the Office of the NH Attorney General. Her office is responsible for overseeing administration of the various funds held by the several municipal bodies of Trustees of Trust Funds throughout the state. Her office hosts two training sessions each spring for Trustees of Trust Funds: one for new trustees to review the basics, and another session for experienced trustees to address advanced trust administration and investment issues. Her office also provides a Handbook for Trustees of Trust Funds that is a collection of the applicable state laws with some additional information of interest. The current Handbook for Trustees of Trust Funds is attached as an appendix in this reference manual.

The Trustees strive to meet with Ms. Knowles on an annual basis to check in with any new legislative activity and to review Hanover's current practices to see where improvements can be made. For significant issues that arise during the year, Trustees and/or Town staff may contact Ms. Knowles directly:

Ms. Terry Knowles
terry.knowles@doj.nh.gov
603-271-3591

Annual State Reporting

The NH Department of Revenue Administration requires annual reports of trust funds and capital reserve funds filed on forms MS-9, Report of Trust and Capital Reserve Funds, and MS-10, Report of Common Trust Fund Investments. Trustees must file a copy of each of these reports with the Attorney General (Office of Attorney General, Charitable Trust Division, 33 Capitol Street, Concord, NH 03301-6397) and with the NH Department of Revenue Administration (Dept. of Revenue Admin., Municipal Finance Bureau, PO Box 487, Concord, NH 03302-0487) on or before September 1 following the fiscal year ended June 30.

MS-9, Report of Trust and Capital Reserve Funds

This report is used to report the value of each individual trust and capital reserve fund held in the custody of the Trustees. In reporting how the fund is invested, the notation “PDIP” will suffice if the fund is invested in the NH Public Deposit Investment Pool, or the word “Common” if the fund is invested in common with other funds. Only those Trustees which invest funds in common are required to submit an MS-10. The Department of Revenue has provided the following ‘walk-through’ of the MS-9.

The MS-9 has been designed to disclose the following information:

- (1) The DATE OF CREATION of each trust fund;
- (2) The NAME of each trust fund;
- (3) The PURPOSE of each trust fund;
- (4) The manner in which the unexpended principal and income is INVESTED. The report should state whether investments are in the form of individual bank deposits, stocks, bonds or common trust fund investments. If investments are in common, indicate Common Trust Fund #1, etc. (A separate report, form MS-10, must be filed listing the common investments);
- (5) The PERCENTAGE of common trust fund investment applicable to each fund participating in one or more common trust funds;
- (6) The status of the PRINCIPAL account of each trust fund. Columns are provided in this particular section to show the principal balance at the beginning of the year; any new funds or additions to existing funds which were received during the year; any gains or losses on sales of securities or any cash capital gains dividends received; any withdrawals made; and the principal balance at the end of the year;
- (7) The status of the INCOME account of each trust fund. Columns are provided in this section to enter the income balance at the beginning of the year; the amount of income received during the year and what percentage of common trust investment income (if applicable); the amount of income withdrawn during the year and expended for authorized purposes; and the income balance at the end of the fiscal year;
- (8) The last column represents the GRAND TOTAL of principal and income at the end of the fiscal year.

Pertinent information must be shown in all applicable columns. All columns should be added both across the page and down on a cumulative total basis from the beginning to the end of the report. Pages should be numbered consecutively, and the total number of pages making up the report indicated. This can be shown at the top of each page as page 1 of 10 pages, or 1/10, etc.

The total in the Grand Total column should agree with the total amount of cash invested in bank deposits, stocks, bonds, or other legal investments.

- (9) On page 4, list increases and decreases in the market value of the principal of the securities held.

MS-10, Report of Common Trust Fund Investments

The MS-10 is an inventory of the bank accounts, certificates of deposits, stocks, bonds, mutual funds, etc. in which the common funds are invested. The Department of Revenue has provided the following 'walk-through' of the MS-10.

The sum of the itemized common trust fund investments listed on Form MS-10 should agree with the total or totals of each group of common trust funds reported on form MS-9. Do not include on form MS-10, investments pertaining to individually invested trust funds.

The principal section on pages 2 - 3 should reflect the actual cost of acquisition of securities or other investments. This would be the same as last year's ending principal balance. There are columns provided to record increases or decreases arising during the fiscal year from the purchase or sale of securities, cash capital gains, and ordinary gains or losses on sale of securities. The book value for each type of investment at the end of the year should be shown in the column provided for that purpose. When unexpended income is also invested in common, appropriate information must be entered in the income section of form MS-10.

Market value of the principal amounts is listed on page 4.

REPORTING VALUATION OF STOCKS AND BONDS:

The value of stocks, bonds and other investments reported by trustees in their annual reports is to be stated at cost of acquisition (RSA 31:29). Increases or decreases in the market value of the principal of securities held by trustees are listed on page 4 of these reports. Gains and losses on securities are recognized in the accounts ONLY when any actual sale or disposition occurs.

PROFESSIONAL BANKING OR BROKERAGE ASSISTANCE

State law allows for trustees to seek professional banking or brokerage assistance in the performance of their duties as trustees. Expenses attributable to the management and investment of trust fund resources may be charged against the income only of trust funds involved. Of the total expenses shown on MS-10, the

trustees should indicate, in the appropriate space at the bottom of the form, the total amount of money paid for fees and expenses of professional banking and brokerage assistance during the accounting period. We recommend the trustees keep evidence of bank and brokerage charges.

Town of Hanover
Trustees of Trust Funds
Summary Fund Listing

The following table provides summary information on the many individual funds under the custody of the Trustees.

Original documentation behind the older funds is kept at the Rauner Special Collections Library at Dartmouth College. To the extent historic documentation exists and has been archived, copies have been made and are on file in Town Hall in a Trust Document binder kept by the Director of Administrative Services.

Original documentation for newer funds is on file with the Trust Document binder kept by the Director of Administrative Services.

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Fund Category	Date Fund Created	Name of Fund	Purpose and Restrictions of Fund	Documentation Available
Perpetual Trust – Schools	1916	School Fund	This fund dates from the foundation of the Town. The original charter, as was customary in the charters granted by the Province of New Hampshire when Hanover was founded, provided that one proprietary share, i.e., 1/67 th of the total township, should be reserved “for the benefit of a school in said town.” This proprietary share resulted in an ownership of about five lots in different parts of the Town totaling over 300 acres. School lots were early sold or leased on long terms so that money could be appropriated to school use; as sales were made, the amounts received were invested as a School Fund. In 1829 it was “(v)oted that the Literary Fund amounting to \$447.15 ... be put to interest and that the interest be divided among the several school districts ... at the discretion of the Selectmen.” No accounts are available to show much of the present School Fund came from this source.	1916 Annual Report reporting the findings of a Committee appointed “to investigate the sources and terms of the trust funds held by the Town.”
Perpetual Trust – Schools	1829	Freeman School Fund	“At the Annual Town Meeting on the 13 th day of March 1829 Jonathan Freeman, Esq. made a donation to his native Town of Hanover, NH of twelve dollars on condition that the Town make it an accumulating fund for the support of schools until the addition which might subsequently be made thereto for the same purpose the capital shall amount at the least to the sum of two thousand dollars – after which the interest arising annually therefrom to be equally divided for schooling...” Subsequently, Freeman offers to make the annual income of said fund available to the support of schools as aforesaid after the first day of June 1900 instead of limiting the same to the sum of two thousand dollars.	March 12, 1850 Freeman School Fund Report

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Perpetual Trust – Schools	1873	William Tenney School Fund	Received of Mr. William Tenney, five hundred dollars the interest of which is to be appropriated for the benefit of the Common School of said town. If said fund is used for any other purpose than for Common Schools, then it is to be sent back to his heirs.	1872 Hanover Town Records
Perpetual Trust – Schools	1951	Newton Alvin Frost School Fund	"I give and bequeath to the Town of Hanover ... the sum of twenty-five hundred dollars, to be held and used, with the accumulated interest thereon as hereinafter described, as a perpetual fund for the benefit of the public schools in said Hanover, to be known as the "Newton Alvin Frost School Fund," the income only from which shall be used for said schools. The income shall be divided among the several school districts in said Hanover in the same proportion that school money is required by law to be divided. This bequest is made on the condition that none of the accumulated income shall be used until it together with the principal sum amounts to five thousand dollars and that thenceforth the five thousand dollars shall be perpetually held in trust by said Town of Hanover and the income therefrom used for the benefit of the public schools of said Hanover."	The will of Eleanor Louise Frost
Perpetual Trust – Schools	1965	Leased Land Fund	"Enclosed please find a check from the Hanover School District in the amount of \$130 which has been collected as lease rental on land owned by the Town of Hanover, the proceeds of which are to be used to support the schools." "... we decided that it would be best to pay this sum into the Trust Funds for the schools and let it accumulate interest. ... although it could be withdrawn if it were necessary at any time."	December 30, 1964 letter from Hanover School District Treasurer to Treasurer of Trustees of Trust Funds

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Perpetual Trust – Town Library	1903	Town Library Maintenance Fund	"In May 1903, the Town voted as follows: 'that from the amount received from the sale of the Town Farm the sum of Two Thousand Dollars be paid to the Trustees of the Hanover Town Library, to be employed by them for the following purposes, to wit: not exceeding Fifteen Hundred Dollars to be used for the erection in the eastern part of the town, of a building for the said Library; and the balance to be invested as a fund the interest of which is to be expended for the care and maintenance of said Library."	1916 Annual Report reporting the findings of a Committee appointed "to investigate the sources and terms of the trust funds held by the Town."
Perpetual Trust – Town Library	1914	David T. Ross Library Fund	Bequest of David T. Ross of Lebanon, the income to be used for the benefit of the Town Library.	1916 Annual Report reporting the findings of a Committee appointed "to investigate the sources and terms of the trust funds held by the Town."
Perpetual Trust – Town Library	1928	Charles J. Mason Library Fund	From the will of Charles J. Mason: "I give and bequeath to the Hanover Town Library at Etna ... \$100 in trust, to keep the same safely and securely invested and to use the income arising therefrom, annually for the purchase of books for the Library."	1928 Trustee Records
Perpetual Trust – Town Library	1930	Ella Dewey Merrill Library Fund	From the will of Mrs. Ella Dewey Merrill: "I give and bequeath to the Hanover Town Library ... \$100 in trust, to keep the same safely and securely invested and to use the income arising therefrom, annually for the purchase of books for the Library."	1930 Trustee Records
Perpetual Trust – Town Library	1937	Irving P. Fitts Library Fund	"I give and bequeath to the Hanover Town Library the sum of Five Hundred Dollars."	1937 Trustee Records
Perpetual Trust – Residents In-Need	1849	John Williams Fund	"to be appropriated for the benefit of the farm for the poor"	1840 Town Records; 1916 Annual Report reporting the findings of a Committee appointed "to investigate the sources and terms of the trust funds held by the Town."

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Perpetual Trust – Residents In-Need	1959	Richard W. Sawyer Fund	“... to pay over the principal of said fund to the Town of Hanover ... to be held in trust by said Town as a separate fund known as the Richard W. Sawyer Fund, the income therefrom to be used and expended by the Selectmen of said Hanover as their discretion seems meet from time to time either in aid of some worthy and needy resident of said Hanover, preferably native born, or in aid of any impecunious student matriculated in Dartmouth College in said Hanover, born in said Town and recommended to said Selectmen as worth of financial assistance.”	Will of Richard Warren Sawyer
Perpetual Trust – Cemeteries	1899-1979	Over 200 separate funds	In earlier times, when families buried their relatives in a family plot in one of the local cemeteries, they endowed a fund for the perpetual care of these cemetery grounds. The Trustees are restricted by statute against pooling the several cemetery funds into a single fund restricted for cemetery grounds maintenance.	Trustee archival documents; cannot locate documentation for each individual fund
Perpetual Trust –Town Library	1967	Adelaide S. Hardy Fund	“I bequeath to the Hanover Town Library, Etna ... the sum of One Thousand Dollars (\$1,000) to be an endowment fund kept safely invested and the income used for their general purposes.”	Estate settlement correspondence
Perpetual Trust – Schools	1971	Donald Walter Bruce History Essay Prize Fund	“Herewith you will find a check for \$1,000 which the School District is to keep invested and use the income each year for the ‘Donald Walter Bruce American History Prizes.’”	Donor letter
Perpetual Trust – Schools	1974	Lois L. Jeremiah Special Ice Hockey Fund	“I give to the Hanover High School Athletic Association \$2,000 to be held in trust for the benefit of the hockey team with interest only expended each year.”	Estate settlement correspondence

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Perpetual Trust –Town	2001	Dagmar's Place Fund	<p>“... all donated funds remaining after the creation of the park would be retained by the Town in a trust fund and invested, with the resulting income to be applied in perpetuity for the replacement of equipment and other costs maintaining and improving Dagmar's Place.”</p> <p>“The specific expectation of those of us involved in the project has been that the primary use of income accumulating in the trust fund would be to repair and replace equipment at the park (primarily play equipment and benches) and possibly also periodically to do tree and landscaping work.”</p> <p>Dagmar's Place is a 'pocket park' along Valley Road.</p>	Detailed correspondence from Cary Clark, spouse of Dagmar Clark
Perpetual Trust – Schools	2002	Emil Rueb Photography Trust	<p>“The primary purpose of this charitable trust is and shall be to provide an annual prize equal to the net income of the trust ... to that student who is a member in good academic standing of the then senior and graduating class of Hanover High School ... who ... has shown or displayed the greatest interest and ability in photography during his or her period of attendance at Hanover High School.”</p>	Grafton County Probate Court Order
Perpetual Trust – Residents In-Need	2006	Frank B. Tenney and Edith R. Tenney Trust Fund	<p>“... to use the income or interest therefrom to help, aid, assist or support any poor and needy children within the said township of Hanover ...”</p> <p>“I direct the said trustees of said Trust Fund and their successors in office to pay annually to the 'Tenney Reunion Association' at the time of their annual reunion the sum of \$25 so long as said association hold annual reunions ...”</p>	Grafton County Probate Order – Dissolving Trust held by LISTEN and Transferring Assets to the Town of Hanover Trustees of Trust Funds

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Perpetual Trust -Town	2006	Pleasant Street View and Slope Maintenance Fund	<p>“... the Pleasant Street View and Slope Maintenance Fund will be overseen by the Town of Hanover Trustees of Trust Funds; and the principal of this fund will be invested by the Town of Hanover Trustees of Trust Funds to generate fund growth and income; only the income from this fund shall be used to accomplish the view and slope maintenance work ...”</p> <p>“... if for any reason, the Town of Hanover through its Conservation Commission discontinues the Pleasant Street View and Slope Maintenance Fund by way of a formal voted action, all fund principal and accumulated income shall be released by the Town of Hanover Trustees of Trust Funds and deposited in the Town of Hanover Conservation Fund, created as authorized by RSA 36-A:5.1 ...”</p>	Town of Hanover Conservation Commission Resolution adopted :March 8, 2006 [Conveyance of private gifts solicited by Hanover Conservation Commission]
Perpetual Trust - Schools	2008	William Murphy Lamp of Learning Award Fund	“The annual earned income on the fund principal shall be used to award the winning student a \$100 cash award, a pin, and a medal with a lamp design.” Note: gift transmittal includes ‘escape clause’ should the HHS discontinue the awarding of this prize.	Gift Instrument from James and Marjorie Matthews
Restricted Expendable Trust - Town	1972	Ignacio Fierro, Jr. Memorial Fund	“This gift is made for the purpose of purchasing furniture, furnishings and equipment for that part of the new proposed Fire Station which will be used for living quarters for Dartmouth students who are working as volunteer firemen for the Town of Hanover ... Any portion of the gift remaining upon completion of the Fire Station, and any interest accruing thereon, may be used in future years for the maintenance and replacement of the furniture, furnishings and equipment provided by this gift.” Selectmen named agents to expend at March 1992 Town Meeting.	Gift Instrument from Ignacio Fierro, Sr.

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Restricted Expendable Trust - Town	1983	Lawrence E. Rennie Visiting Nurse Service Fund	<p>Bequest called for distribution of remainder shares of estate to "the Town of Hanover for the use of the Visiting Nurse Service."</p> <p>Selectmen resolved that "On an annual basis, or less frequently, the Selectmen shall direct the Trustees to pay income from this trust, and/or principal amounts therefrom, for projects, programs, special events, or for any other purpose which they approve with the exception of the payment of principal amounts to defray a portion of the annual Town subsidy payment relating to the provision of Visiting Nurse Services to residents of the Town of Hanover."</p>	Last will and testament of Lawrence E. Rennie; Hanover Selectmen Resolution dated February 14, 1983
Restricted Expendable Trust – School	1987	Reserve Fund for Education of Persons with Disabilities	<p>"... the sum of Fifteen Thousand Dollars (\$15,000) to establish a reserve fund for special education purposes under the provisions of RSA 35:1-b."</p> <p>The Hanover School Board named agents to expend at March 15, 2000 Hanover School District Meeting.</p>	Minutes of Hanover School District Meeting held March 19, 1986
Restricted Expendable Trust - Town	1994	Termination Benefits Expendable Trust Fund	<p>"To see if the Town will vote to establish a trust fund to make provision for the payment of termination benefits to Town employees as provided in RSA 31:19-a ..."</p> <p>Selectmen named agents to expend at March 1992 Town Meeting.</p>	Minutes of Hanover Town Meeting held March 10-11, 1992
Restricted Expendable Trust – School	1997	Don S. Bridgman Fund	<p>"... and invested by the Trustees of Trust Funds and subject to the restriction that the assets not be used by the Hanover School District to reduce taxes, but to afford advantages in addition thereto to the students of the Hanover School District."</p>	Grafton County Probate Court Order
Restricted Expendable Trust - Town	2000	George Ryder Post 71 – American Legion Fund	<p>"... I have the authority to redirect the \$1,000 funds that were earmarked for the maintenance of the Veteran's grave sites, etc. to cleaning and engraving additional names to the WWKK Memorial in front of the high school. Also making it possible to add any names from the Korean War and the Vietnam War."</p>	Correspondence from S. Sam Zappala Past Commander George Ryder Post 71

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

Restricted Expendable Trust - Town	2001	Land and Capital Improvements Fund	"To see if the Town will vote to create an expandable general trust fund under the provisions of RSA 31:19-a, to be known as the "Land and Capital Improvements Fund," for the purpose of acquiring land for public purposes and to construct capital improvements in response to needs required by growth and development ..."	Minutes of Hanover Town Meeting held May 11, 1999
Restricted Expendable Trust – School	2002	School Buildings Maintenance Fund	"To see if the School District will vote to create an expandable trust fund under the provisions of RSA 198:20-c, to be known as the School Buildings Maintenance Fund, for the purpose of repairing and maintaining school buildings and property ... and to name the Hanover School Board as agents to expend."	Minutes of Hanover School District Meeting held March 14, 2001
Restricted Expendable Trust - Town	2002	Etna Library Expendable Trust Fund	"These gifts will be deposited into an already existing expendable trust fund and shall be expended at the direction of the Etna Library Trustees."	Internal Town correspondence
Restricted Expendable Trust - Town	2003	Wicker Family Foundation Fund	Bequest of \$1,000 to the Cemetery Association, Hanover, NH	Gift Transmittal dated November 7, 1985
Restricted Expendable Trust – School	2006	Tax Stabilization Fund	"... the School District vote to create an Expendable Trust Fund under the provisions of RSA 198:20-c to be known as the Tax Stabilization Fund, for the purpose of partially offsetting Hanover's future Dresden assessment related to the 2003 Dresden building project."	Minutes of Hanover School District Meeting held March 10, 2004
Restricted Expendable Trust – School	2008	6 th Grade Tuition Fund	"... to create an expendable trust fund under the provisions of RSA 198:20-c, to be known as the 6 th Grade Tuition Fund, for the purpose of smoothing variations in tuition payments to the Dresden School District for 6 th grade students ... Further, ... and name the School Board as agents to expend from the fund ..."	Minutes of Hanover School District Meeting held March 3 and 6, 2007
Restricted Expendable Trust - Town	2008	Welfare Assistance Expendable Trust Fund	"...apply this gift for the benefit of Hanover residents in genuine need of fuel, food, shelter, medical, or other critical assistance."	Gift Transmittal dated December 17, 2007

Town of Hanover Trustees of Trust Funds – Listing of Funds Administered with Summary Information

This page intentionally left blank.

**Town of Hanover
Trustees of Trust Funds
Preparation of MS-9, Report of Trust and Capital Reserve Funds**

Interim Preparation – Prepare ‘mini’ MS-9 on a Monthly Basis

Trustees have encouraged staff to prepare an abbreviated monthly MS-9 for the pooled perpetual trust funds in order to more accurately allocate gains and losses, income and fees. Without this intermediate step in preparing the annual MS-9, gains and losses, income and fees are allocated based on the market value of the fund at the end of the fiscal year, with no regard to the various ins and outs that may have occurred throughout the fiscal year. In preparing this schedule, there is no distinction between the principal and income balances of the individual funds; rather, the goal is to most accurately reflect the rolling total market value of the individual fund.

See sample monthly schedule plus the consolidated fiscal year schedule reflecting the sum of the 12 months' activity.

1. Beginning market value balances for the reporting period are carried forward from previous reporting period.
2. Any additions or withdrawals to the funds are input directly at the fund level.
3. Realized gains and losses, unrealized gains and losses, income and fees are taken from the monthly investment statements and allocated based on the percentage of market value of the individual fund to total market value of portfolio as of the beginning of the reporting period.
4. The activity for the individual funds is summed across to render an ending market value balance.
5. There is a cross-check to make sure that the sum of the rendered market values of the individual funds matches the market value of the portfolio at the end of the reporting period per the investment statement.

Preparation of Annual MS-9

1. Beginning balances of principal book value, income book value, principal market value and total fund market value are carried forward from the ending balances of the previous year's MS-9.
2. Common Investment Funds – Perpetual Funds Invested in Common
 - a. Using the monthly MS-9 consolidated to reflect the year's activity, update whether any principal additions were made, and update (allocating where necessary based on % of beginning principal book value) to reflect any realized capital gains and losses as principal book value changes.
 - b. Using the monthly MS-9 consolidated to reflect the year's activity, update income earned, bank fees, and any disbursements (allocating where necessary based on % of beginning income and principal value).

- c. Using the monthly MS-9 consolidated to reflect the ending market value – principal and income – (allocating where necessary based on % of ending income and principal book value).
- d. The totals for the Common Investment Funds – Perpetual Trusts should tie directly to the consolidated monthly MS-9 report ... except for the Market Value figure for Principal Only.
- e. The Market Value figure for Principal Only is provided by the Investment Manager as part of the MS-10 preparation. This number is then allocated to the individual funds based on the % of the combined Principal and Income Market Value of the fund to the total combined Principal and Income Market Value of the portfolio.

3. Expendable Restricted Trust Funds – excluding Bridgman Fund
 - a. All expendable restricted funds (except the Bridgman Fund) are currently invested in the NH PDIP; consequently, there are no gains and losses, and market value and book value are the same.
 - b. Each expendable restricted fund will have its own NH PDIP sub-account, and the activity (principal additions, income earned, withdrawals) can be reported straight from the June 30 NH PDIP statements. Withdrawals will be taken from the income book balance first, if more is withdrawn than is available in the income book balance, reflect the difference as a principal book value withdrawal.
4. Expendable Restricted Trust Funds – the Bridgman Fund
 - a. The Bridgman Fund is currently invested as a distinct account with our investment manager and receives a separate statement detailing investment activity. Although it is a fully expendable fund, the Hanover School District strives to only utilize the income earned on the fund.
 - b. Using the cumulative FY investment report, report realized gains and losses as a change to the principal book value.
 - c. Using the cumulative FY investment report, report total income, management fees, and any fund withdrawals as changes to the income book value. Withdrawals will be taken from the income book balance first, if more is withdrawn than is available in the income book balance, reflect the difference as a principal book value withdrawal.
5. Capital Reserve Funds
 - a. All capital reserve funds are currently invested in the NH PDIP; consequently, there are no gains and losses, and market value and book value are the same.
 - b. The Municipal Transportation Improvements Fund is tracked as a separate NH PDIP sub-account and the activity (principal additions, income earned, withdrawals) can be reported straight from the June 30 NH PDIP statements. Withdrawals will be taken from the income book balance first, if more is withdrawn than is available in the income book balance, reflect the difference as a principal book value withdrawal.
 - c. All other capital reserve funds are now pooled into a single NH PDIP account, and the allocation of income earned is done on a monthly basis. Using the monthly allocation schedule and the June 30 NH PDIP

statement, the principal additions, income earned, and withdrawals are reported on the MS-9. Withdrawals will be taken from the income book balance first, if more is withdrawn than is available in the income book balance, reflect the difference as a principal book value withdrawal.

Dresden School District Funds – Excerpts from Trustee Meeting Minutes

(9/7/2002 Meeting Minutes - excerpt)

Trustee Draper reported that he has spoken briefly with Attorney David Bradley on the issue of what entity is responsible for stewarding the trust and capital reserve funds of the Dresden School District. After some general discussion, Trustees agreed to wait for Attorney Bradley, working on behalf of the Dresden School District, to move further on this issue.

(2/6/2003 Meeting Minutes - excerpt)

Attorney Bradley attended the meeting to discuss the custody and oversight of the Dresden School District Funds. There was an article on the proposed Dresden School District warrant to authorize the Hanover Trustees of Trust Funds to act as the Dresden Trustees of Trust Funds, as the Hanover Trustees are already in existence (i.e., no separate election would be required) and already have appropriate processes in place that work well.

After discussing several practical and procedural issues (such as annual state reporting, the posting of meetings, the election of Trustees, etc.), the Trustees suggested that having the Hanover Trustees of Trust Funds oversee the Dresden School District Funds may be feasible if the authority over these funds was delegated to the Hanover Trustees vs. creating a separate entity, the Dresden Trustees.

(4/21/2003 Meeting Minutes - excerpt)

The Trustees asked specifically whether they could act as Trustees for monies other than Town of Hanover and Hanover School District funds. Ms. Knowles replied that the Trustees have authority over both public and private funds. For private funds, the gift instrument or other controlling document should define the custody of the funds. For public funds, RSA 31:19-a outlines the process where expendable trust funds are created by the Town and overseen by the Trustees of Trust Funds. School districts have no statutory authority to hold monies; these funds are held in custody and administered by the Town's Trustees of Trust Funds.

Ms. Knowles noted that there are NH communities with inter-municipal districts where the school district has voted to specify which Town's Trustees of Trust Funds would hold custody of the school district's funds and administer them. John Stark Regional School District includes the Towns of Henniker and Weare; the district has voted that the Town of Weare Trustees of Trust Funds will have custody and administer the trust funds of the John Stark Regional School District.

Because the Dresden School District is an interstate compact, the issue is complicated due to the imposition of New Hampshire laws on an entity that is not entirely made up of New Hampshire residents. The interstate compact supersedes local laws. One solution is to amend the Dresden interstate compact to stipulate who will act as Trustees of Trust Funds and what laws would govern these funds. However, such a motion is quite onerous

as it would take action in both of the Vermont and New Hampshire State Houses, as well as an act of the United States Congress.

Trustees noted that they were generally neutral on this issue and agreed that it is the responsibility of the Dresden School District to thoroughly vet this issue.

The discussion then turned to the custody of a specific private bequest in custody of the Dresden School District. Ms. Knowles indicated that a petition of *cy pres* could be filed with the court to determine the most appropriate custodian of these funds. She suggested that the Dresden School District be responsible for pursuing this course of action. She also indicated that her office stands ready to assist in this process. A possible outcome of this process might be that the court would rule to make the Hanover Trustees of Trust Funds the custodians of this particular fund. However, this ruling would only be binding for the individual petitioned fund, and it is expected that this fund will be used in its entirety with the near-term Dresden building project.

It was noted that the complexities of an interstate district must bleed over to other areas. The application of grants was noted specifically. Ms. Assmus mentioned that in those areas where the Dresden interstate compact is silent, New Hampshire laws prevail. Ms. Knowles stated that her office cannot render a legal opinion on the custody of these funds or the interpretation of the Dresden interstate compact.

Trustee Severs moved to send a letter to the Dresden School District noting that the Trustees met with Ms. Knowles and agreed that there were many unsettled issues regarding how the Dresden School District trust funds should be administered. This letter will outline that the Trustees would like a formal opinion from Town counsel and would like the School District to fund these costs. This motion was seconded by Trustee Gardent and passed unanimously. Ms. McClain agreed to draft this letter for the Trustees.



June 17, 2003

Mr. David H. Bradley, Esq.
Stebbins, Bradley, Harvey & Miller
P.O. Box 382
Hanover, NH 03755-0382

Dear Dave:

The Town of Hanover Trustees of Trust Funds met on April 21, 2003 with Ms. Terry Knowles, Registrar of the Charitable Trust Unit, to discuss the statutory guidelines and restrictions for the Hanover Trustees taking on the custody and administration of the Dresden School District funds. For your review, the minutes from this meeting are attached.

The Trustees continue to feel several key issues are unsettled and need further explanation. Specifically, we are seeking: (1) confirmation that New Hampshire rules and regulations will exclusively govern the custody and administration of the Dresden Trust Funds, (2) clear guidelines on whether separate state reporting, separately posted meetings, etc. for the Dresden Trust Funds will be required, and (3) what staff resources are available from the Dresden School District to support the Trustees administration of their funds.

To this end, the Trustees would like to engage its own counsel to explore these issues and render an opinion for its consideration. However, because the issue is a Dresden School District matter, we ask that legal fees – up to an agreed-upon maximum – be reimbursed to the Town of Hanover by the Dresden School District. Please let us know as soon as possible whether you believe such an arrangement is possible and the maximum amount the Dresden School District is willing and able to expend for this work.

Thank you for your continued efforts.

Sincerely,

HANOVER TRUSTEES OF TRUST FUNDS
Mr. Lawrence Draper, Mr. Paul Gardent, Mr. Mark Severs

cc: K. Greenbaum, SAU#70
J. Griffin, Town of Hanover



OFFICE OF THE SUPERINTENDENT SCHOOL ADMINISTRATIVE UNIT 70

45 Lyme Road, Suite #207 • Hanover, New Hampshire 03755-1222
Phone (603) 643-6050 • Fax (603) 643-3073 • sau70.org • Email SAU.70@valley.net
SAU 70 – Hanover, NH, Norwich, VT, and Dresden Interstate School Districts

May 24, 2005

Elizabeth A. McClain
Director of Administrative Services
PO Box 483
Hanover, NH 03755

Dear Betsy:

As you realize, over the past several weeks both the Hanover Board and the Town of Hanover Trustees of Trust Funds wrote to our respective attorneys, Dave Bradley and Timothy Bates to get some clarifications on the respective roles of each the Board and the Trustees in spending money from the Bridgman Fund. In discussing this issue at a recent Hanover School Board meeting, I was asked to confer with Dave Bradley and make an effort to find the appropriate solution to this matter. Following a discussion with attorney Bradley and a review of the correspondence from Timothy Bates to the Trustees of the Trust Fund, the following points appear to be clear:

- ⇒ *The Bridgman Fund cannot be used to reduce taxes*
- ⇒ *The Bridgman Fund must benefit only resident Hanover students*
- ⇒ *The Hanover School Board should use these parameters to determine if a proposed use of the Bridgman Fund is appropriate*
- ⇒ *Before expending any of the Bridgman Fund, the school board should describe in writing the purpose for which the money from the Bridgman Fund will be used and should certify in writing that the funds "will not be used to reduce taxes, but to afford advantage to the students of the Hanover School District."*
- ⇒ *Before paying the funds over, the Trustees may make inquiries of the Board regarding their determination that the proposed expenditures meet the parameters outlined above.*
- ⇒ *Unless the letter from the Board discloses an improper purpose "on its face," the Trustees properly discharge their fiduciary duty by paying over the requested funds.*

From the Hanover Board's perspective, they have broad discretion in how the Bridgman Fund is used so long as they do not use the funds to reduce taxes or provide benefits to students who are not Hanover residents. As Attorney Bates noted in his letter to the Trustees, upon receipt of a letter from the Hanover School Board certifying the intended use of the Bridgman Fund the Trustees will have properly discharged their fiduciary duty and, *"Any impropriety in the manner that the funds are... expended will lie with the responsible school district officials."*

In the future, the Hanover Board intends to provide the "letter of certification" recommended by Attorney Bates and supported by Attorney Bradley. I hope this will be the appropriate solution we are striving for.

Sincerely,


Wayne F. Gersen

WAYNE F. GERSEN
Superintendent

JOHN AUBIN
Assistant Superintendent
Business

JANE WEISSMANN
Assistant Superintendent
Special Services

SAU #70 Letterhead

Date: _____

Trustees of Trust Funds
c/o Administrative Services
Town of Hanover
P.O. Box 483

Dear Trustees of Trust Funds:

This letter formally requests the disbursement of monies from the Bridgman Fund in the amount of _____ (\$XX,XXX.XX). This action was authorized by (1) the voters of the Hanover School District at its Annual Meeting held or (2) the Hanover School Board at its meeting on _____ . Copies of minutes from this meeting, indicating the specific warrant language and the results of the vote, are attached for your review.

These funds will be expended for _____. This expenditure will benefit the students of the Hanover School District in the following way:

_____.

Further, as representatives of the Hanover School District, we certify that these funds are not used to reduce taxes, but, rather, they are used to afford advantages in addition thereto to the students of the Hanover School District.

Authorized Signers: _____
Chair of Hanover School Board

Date: _____

Superintendent of Schools, SAU#70

Date: _____

MITCHELL & BATES PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246

WALTER L. MITCHELL
TIMOTHY BATES
JUDITH E. WHITELAW
LAURA A. SPECTOR

TELEPHONE (603) 524-3885
FACSIMILE (603) 524-0745

February 23, 2005

Elizabeth A. McClain,
Director of Administrative Services
P.O. Box 483
Hanover, NH 03755

Re: The Bridgman Fund

Dear Betsy:

As requested, I have reviewed your letter of February 18, 2005 and enclosures, as well as the applicable law surrounding the duties of the town's trustees of trust funds. I have concluded that, although the monies in the Bridgman Fund are not held in trust, but rather are owned outright by the Hanover School District, the trustees of trust funds have a fiduciary duty to inquire into the proposed use of any funds that school district officials seek to withdraw from the Fund, and to pay over the funds only if their proposed use is consistent with the restrictions articulated in the Order of the Probate Court dated June 3, 1997. Let me explain how I arrived at this conclusion, and then touch upon some related points.

It is clear that a fiduciary relationship does not depend solely on the existence of a trust. For example, the New Hampshire Supreme Court has said that:

A fiduciary relationship does not depend upon some technical relation created by, or defined in, law. It may exist under a variety of circumstances, and does exist in cases where there has been a special confidence reposed in one who, in equity and good conscience, is bound to act in good faith and with due regard to the interests of the one reposing the confidence. Lash v. Cheshire County Savings Bank, 124 N.H. 435, 439 (1984) (citation omitted).

As to the Bridgman Fund, there has been "special confidence" placed in the Hanover Trustees of Trust Funds, to hold, invest, account for, and finally to pay out the funds at the request of the school district officials. This special confidence requires the trustees to act in good faith, and with regard for the interests of those who are the intended beneficiaries of the fund, the students of the Hanover School District. Thus, I believe it is beyond serious argument that a fiduciary relationship has arisen between the trustees of trust funds, and the students.

I see no reason to believe that the fiduciary relationship is limited only to the custody and investment of the monies, rather, I believe the fiduciary obligation also extends to the paying over of those funds to school district officials. Importantly, there

Elizabeth A. McClain,
February 23, 2005
Page 2

) is nothing in the Probate Court's Order dated June 3, 1997 to suggest that the trustees' fiduciary duty does not extend to the paying over of funds. Indeed, paragraph 7 of the Order states that the trustees shall hold and invest the funds "subject to the restriction that the assets not be used by the Hanover School District to reduce taxes, but to afford advantages in addition thereto to the students of the Hanover School District." Thus, it is my view that if the trustees paid over funds that were then used for an improper purpose, without first exercising the due diligence that a prudent person would bring to the discharge of the fiduciary duty, the trustees would be answerable for their failure. Moreover, the trustees could have confidence in having been released from that portion of their fiduciary duty only upon a further, explicit Order to that effect from the Probate Court; reassurances from school district officials or their counsel that no such fiduciary duty exists are not sufficient, and have no binding effect.

Let me address the subsidiary points raised in your letter, as follows.

) > The case of Drury v. Sleeper, 84 N.H. 98 (1929) interpreted the Will of a gentleman who had left a gift in trust for the benefit of the school in his district within the Town of Alexandria in which he lived. There are several interesting aspects to the case, but the only one that bears on the administration of the Bridgman Fund is expressed in the quotation that is carried into paragraph 5 of the Probate Court's Order, which came from the following paragraph in the Drury decision:

) It should perhaps be observed here that, in any event, the trust was not created for the benefit of taxpayers. It was not intended to relieve others from contributing their just share to the support and maintenance of the public schools, but to afford advantages in addition thereto. *Id.* at 102 (emphasis added) (citation omitted).

This point was apparently advanced by the Director of Charitable Trusts in the probate proceeding regarding the Bridgman Fund, and the court incorporated the requirement that the funds not be used to reduce the tax burden into paragraphs 5 and 7 of its Order.

) > You have asked for some practical guidance about how the trustees might discharge their fiduciary duty for the proper expenditure of funds, if such a duty is found to exist. Without meaning to quibble with the way your question is phrased, it is important to note that the trustees' fiduciary duty does not extend so far as to insure that the funds are actually expended properly by the school district officials. Rather, I think the duty of the trustees is to make the inquiries that a prudent person would make to determine how the funds are to be expended before those funds are paid over to the school district officials. Therefore, I suggest that the school district officials who are requesting funds should be required to briefly describe in writing the purpose for which the funds will be expended, and they ought also to be required to submit a written certification that the funds shall not be used to reduce taxes, but to afford advantages in addition thereto to the students of the Hanover School District. If those documents are submitted in proper form, and do not disclose an improper purpose on their face, I believe the trustees will have properly discharged their fiduciary responsibility if they then pay over the requested funds. Any impropriety in the manner that the funds are then actually expended will lie with the responsible school district officials.

MITCHELL & BATES, PROFESSIONAL ASSOCIATION • Attorneys at Law

Elizabeth A. McClain,
February 23, 2005
Page 3

) > You also ask if the monies in the Bridgman Fund can properly be used for expenditures in the Dresden School District for the benefit of Hanover School District students who are tuitioned to the Dresden school. In my view, the answer is a qualified "yes." The qualification is that I suspect it might be difficult to expend the funds so carefully that they benefit tuitioned students from Hanover, but not other middle school students from the Dresden District. It seems clear that any use of the monies to benefit students from any other district would violate Mr. Bridgman's Will and the Order of the Probate Court.

I hope the foregoing is responsive to your inquiry. Please let me know if we may offer any further assistance with the Bridgman Fund.

Thank you.

Sincerely,



Timothy Bates
tblaw@metrocast.net

) TB/dbm

cc: Julia N. Griffin, Town Manager

MITCHELL & BATES, PROFESSIONAL ASSOCIATION • Attorneys at Law



February 18, 2005

Mr. Timothy Bates, Esq.
Mitchell & Bates Professional Association
25 Beacon Street East
Laconia, NH 03246

Dear Tim:

The Town of Hanover Trustees of Trust Funds seek your guidance in clarifying their role as Trustees relative to the Bridgman Fund, a Hanover School District Fund created by a terminated trust and governed by the terms of a June 3, 1997 Grafton County Court Decree. This question was raised as the Hanover School District considered potential future uses for the income generated on this fund. The Hanover School Board secured an opinion from its counsel underscoring that the Trustees were responsible for investing the funds but, in effect, that they have no responsibility adjudicating whether or not the funds were appropriately utilized.

The Trustees of Trust Funds fully understand they have no role in recognizing, or not, the merits to Hanover students and taxpayers of the expenditures from the Bridgman Fund. However, they routinely exercise their fiduciary role in determining whether or not expenditures conform to the specific fund purpose – in this case, whether expenditures from this fund conform to the Grafton County Court Decree.

Attached for your review are the Court Decree and a copy of the letter to the Hanover School District from David Bradley, the attorney for the Hanover School District. The Decree notes that the Fund will be "held and invested by the Trustees of Trust Funds and subject to the restriction that the assets not be used by the Hanover School District to reduce taxes, but to afford advantages in addition thereto to the students of the Hanover School District."

The Trustees of Trust Funds have the following specific questions:

- Who is responsible for insuring that the funds are utilized in accordance with the Court Decree?

- Are the Trustees of Trust Funds fulfilling their responsibility as Trustees by disbursing funds to the Hanover School District upon their request (without requiring explanation or documentation of how these funds were used)?
- Please provide an explication of the Drury v. Sleeper case cited in paragraph 5 of the Court Decree and please explain how it applies to this particular matter.
- If the Trustees of Trust Funds are responsible for insuring that the funds are spent in conformance with the Court Decree, can you provide some practical guidance on how they would determine whether or not a specific expenditure meets the specific fund restrictions?
- Further, if the Trustees are responsible for insuring the appropriate use of the funds, can the Bridgman Fund be used for expenditures in the Dresden School District for the benefit of Hanover students? As general background, the Hanover 6th graders are Hanover School District students who are tuitioned to a middle school owned and operated by the Dresden School District. The Dresden School District is a joint Hanover, New Hampshire and Norwich, Vermont school district for students in grades 7-12.

The Hanover School District Meeting is scheduled for March 9, 2005, and there is an article on the warrant requesting an appropriation from the Bridgman Fund. If the Trustees of Trust Funds are, in fact, responsible for insuring the funds are spent in accordance with the Court Decree establishing the Bridgman Fund, and if the Trustees are not entirely certain that a particular use conforms to these restrictions, the Trustees want to make this potential conflict known to the Hanover School Board several days in advance of the District Meeting. Consequently, the Trustees of Trust Funds hope to secure an opinion from you within the next 7-10 days.

The Trustees of Trust Funds are not looking to micro-manage or unduly monitor the expenditures of this particular fund. However, they do take their fiduciary duties seriously and want to be certain of their Trustee responsibilities as related to the Bridgman Fund.

As always, your help is greatly appreciated.

Sincerely,

Betsy McClain

Elizabeth A. McClain
Director of Administrative Services

cc: Trustees of Trust Fund (Larry Draper, Paul Gardent, Mark Severs)
J. Griffin, Town Manager, Town of Hanover, w/o attachments
W. Gerson, Superintendent of Schools, SAU #70, w/o attachments

3
GRAFTON, SS.
PROBATE

THE STATE OF NEW HAMPSHIRE

COURT OF

COPY

IN RE: TRUST UNDER THE WILL OF DON S. BRIDGMAN

DOCKET NO. 1994-0632

DECREE

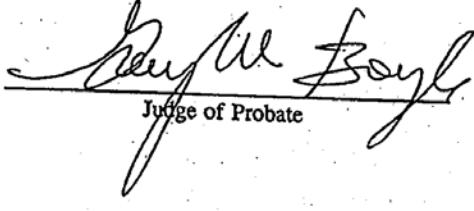
1. The trustees' final account showing a balance of \$360,818.51 is hereby approved.
2. The trustees' Petition to Terminate Trust is granted to the extent and on the terms and conditions following.
3. The trustees request in their Petition the establishment of an appropriate fund or use of funds by the Hanover School District.
4. As the Court has previously noted, there is no requirement pursuant to the terms of the Will of Don Seavey Bridgman for the establishment of any particular fund or use of funds paid to the Treasurer of the Hanover School District.
5. However, it is the position of the Director of Charitable Trusts that the use of the assets by the Hanover School District is subject to a certain restriction of case law as set forth in Drury v. Sleeper, 84 N.H. 98, 102 (1929) that the assets will not be used "to relieve

1994-(

others from contributing their just share to the support and maintenance of the public schools, but to afford advantages in addition thereto."

6. The Hanover School District voted at the Annual School District meeting on March 12, 1997 to accept the funds payable to the District upon the termination of the Trust after a full explanation to the voters that the funds will be subject to such restriction.

7. The trustees are therefore authorized and directed to distribute the remaining trust assets to the Treasurer of the Hanover School District to be held and invested by the Trustees of Trust Funds and subject to the restriction that the assets not be used by the Hanover School District to reduce taxes, but to afford advantages in addition thereto to the students of the Hanover School District.


George W. Boyl
Judge of Probate

Dated: June 3, 1997

1994-01E

**LAW OFFICES OF
STEBBINS BRADLEY HARVEY & MILLER**
 PROFESSIONAL ASSOCIATION
 41 SOUTH PARK STREET
 P. O. BOX 382
 HANOVER, NEW HAMPSHIRE 03755-0382
 TELEPHONE 603-643-3737
 FAX 603-643-9634
 EMAIL: OFFICE@SBHMLAW.COM
 WEBSITE: WWW.SBHMLAW.COM

*ALSO ADMITTED IN VERMONT
 *ALSO ADMITTED IN NEW YORK
 P. O. BOX 500
 NORWICH, VERMONT 05055
 TELEPHONE 802-295-3454
 421 SUMMER STREET
 ST. JOHNSBURY, VERMONT 05819
 TELEPHONE 802-748-6367
 FAX 802-748-6284

January 14, 2005

Wayne F. Gersen, Superintendent
 Hanover School District
 45 Lyme Road, Suite 207
 Hanover, NH 03755

Re: Explanation of Bridgman Fund

Dear Wayne:

Here is a nutshell is of everything (hopefully) you need to know about the Don S. Bridgman Fund.

Don S. Bridgman was a prominent Hanover citizen who created a trust in his will which was dated January 20, 1917. The trust went into effect upon his death, which I believe was in the 1930s. There were a number of beneficiaries of the trust and the trust remained in existence until 1997.

By the terms of the trust, any funds remaining in it upon termination were required to be paid to the Hanover School District. The trustees of the trust petitioned the Grafton County Probate Court for permission to terminate the trust and by a decree dated June 3, 1997 the judge of the Grafton County Probate Court granted the trustees' petition.

The petition to terminate the trust was granted on 2 important conditions as follows:

1. "[T]here is no requirement pursuant to the terms of the will of Don Seavey Bridgman for the establishment of any particular fund or use of funds paid to the Treasurer of the Hanover School District." and
2. "The trustees are authorized and therefore directed to distribute the remaining trust assets to the Treasurer of the Hanover School District to be held and invested by the Trustees of Trust Funds and subject to the restriction that the assets not be used by the Hanover School District to reduce taxes, but to afford advantages in

January 14, 2005
Page 2

addition thereto to the students of the Hanover School District."

The Hanover School District voters voted at the Annual District Meeting in March of 1997 to accept the funds payable to the District upon the termination of the trust. At that time, the amount of funds in the trust was about \$800,000. At the same District meeting, it was voted that the funds would be known as the Don S. Bridgman Fund.

Although the School District could legally spend all of the money in the Bridgman Fund at once, it was decided by the School Board in 1997 that it would begin treating the fund as a permanent endowment fund and spend only a small percentage of the assets of the fund each year. Each School Board since 1997 has followed this approach.

The money in the Bridgman Fund is required by general law and the Probate Court decree to be held and invested by the Trustees of Trust Funds for the Town of Hanover. The money, however, is not governed by the terms of any trust.

Since the Trustees have different investment approaches between short term funds and long term funds, the Trustees of Trust Funds need to know whether to invest the Bridgman Fund on a short term or long term basis. My file indicates that there was a meeting of the minds between the School Board and the Trustees of Trust Funds in 1997 that the Bridgman Fund should be invested on a long term basis and that the Trustees of Trust Funds would not be blamed if some future School District meeting decided to liquidate the fund on short notice when the value of the fund was at the bottom of a fluctuation.

In summary:

1. The Bridgman Fund is not in a trust. It is owned outright by the Hanover School District.
2. The Bridgman Fund is not a permanent endowment fund, but so far it has been treated by the School District as if it were.
3. The School District could legally spend the entire Bridgman fund at any time. However, if that were going to happen, the Trustees of Trust Funds need to know as soon as possible in order to adjust their investment policy for the fund.
4. It is the School Board and voters of the Hanover School District who decide what the Bridgman fund will be spent on and how much will be spent at any time.
5. The School Board does not need to get permission from the Trustees of Trust Funds for any expenditure from the fund.
6. There is no bright line between what is a "usual" expenditure covered by taxes and a "special" expenditure which is in addition such an expenditure, and I believe that the School Board has a fair amount of discretion as to where to draw that line.

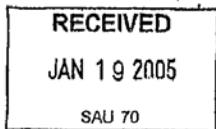
January 14, 2005
Page 3

Please let me know if this doesn't answer all your questions on this topic.

Sincerely yours,

Dave
David H. Bradley

DHB/kdp



Issue re: Commingling of Expendable and Non-Expendable Funds

2 terminated funds (the 1990 Land Acquisition & Capital Improvement Fund and the 1994 Capital Improvements from Land Sale Fund) were invested in the common investment fund, and subsequently withdrawn a few years later. This activity underscored that the allocation of realized gains and losses did not take into account unitized valuation or time weighting; in essence, newer funds unfairly benefited when/if they were withdrawn from the investment pool. This money, admittedly, was exposed to market risk and shouldn't be excluded from sharing in the investment fund's appreciation; however, the allocation methodology cannot unfairly benefit newer funds at the expense of long-time funds.

(3/12/2003 Meeting Minutes - excerpt)

Mr. Wrenn noted that the commingling of expendable and non-expendable trusts in the same account has highlighted the problems of allowing unrealized gains and losses flowing to both new and old funds on an equal basis. Mr. Wrenn outlined that income and fees are allocated to individual funds based on the book value of the principal amount. There followed a discussion of the drawbacks of ignoring any accumulation of income value in the funds when allocating amount based on principal book value. Income and principal amounts are combined to invest; therefore, all dividends and interest earned, along with unrealized gains and losses, should be allocated based on the combined income and principal book values of the funds.

RSA 31:29 declares that withdrawals from common trust funds shall be made at market value.

(4/21/2003 Meeting Minutes -excerpt)

Ms. Knowles indicated that corrective action needed to be taken so that private and taxpayer money are not commingled in the same investment pool. Trustees agreed and indicated that such action should be taken by June 30, 2003.

As context, Ms. Knowles related that there were historically no issues surrounding capital gains and losses as all investments were Certificates of Deposit and other cash equivalents. With legislation changing to allow for more complex investments that shared in a potential higher yield (and the risk of market loss), the landscape has become increasingly more complex and harder for her office and the volunteer Boards of Trustees of Trust Funds to oversee. Ms. Knowles indicated that the management of the trust funds has so far outgrown the capabilities of some of the volunteer Boards of Trustees of Trust Funds, she is trying to change the law to allow Towns the option of engaging a professional fiduciary agent vs. the elected Trustees of Trust Funds.

Ms. Knowles acknowledges there have been many problems state-wide related to the allocation of income and capital gains and losses to pooled funds. Some Trustees throughout the State have attempted to allocate realized capital gains and losses based upon a self-devised formula, where older funds receive a proportionately larger share of

the gains and losses than newer funds. Few municipalities have the resources to oversee this type of basic time-weighted allocation.

Ms. Knowles reinforced that everything on the core MS-9 and MS-10 forms should be reported at book value and that distributions should not be made based upon market value. She illustrated that the disclosure of market value on the MS-9 and MS-10 is for informational purposes only and should not be used to determine the value of funds that may be disbursed.

In discussing the January 2001 disbursement from the terminated Land Acquisition and Capital Improvements Trust Fund and the Capital Improvements Restricted Purpose Fund, Ms. Knowles suggested that the book value of the funds at the date of the disbursement is what should have been disbursed. (The market value at June 30, 2000 is what was disbursed). The Trustees asked that Ms. Knowles confirm these instructions in writing; she indicated that she would try to get a letter to Trustees within a week or two. Trustees instructed Ms. McClain to derive the valuation (as Ms. Knowles suggested) to determine the impact of any over-disbursement to the Town of Hanover and to the Conservation Fund.

In closing, the Trustees generally discussed the nature of divesting from equities if unrealized capital gains are not distributed as part of the individual fund's appreciation available for use.



August 31, 2004

Ms. Terry M. Knowles, Registrar
Charitable Trusts Unit
Office of the New Hampshire Attorney General
33 Capitol Street
Concord, NH 03301-6397

Dear Terry:

Enclosed are the Forms MS-9, Report of Trust and Capital Reserve Funds, and MS-10, Report of Common Trust Fund Investments, for the Town of Hanover for the fiscal year ended June 30, 2004. Also enclosed is a revised Form MS-9 for the Town of Hanover for the fiscal year June 30, 2003.

Last fall, the Town of Hanover Trustees of Trust Funds undertook a thorough review of all individual fund balances invested in the Common Trust Fund Investment Pool. This review was prompted by issues arising from the termination of two expendable trust funds in January 2001. As part of the review project, gains and losses were allocated to the individual fund balances on a more time-weighted basis; that is, consideration was given to the timing throughout the fiscal year of various deposits and withdrawals vs. allocating income, gains and losses on the pro-rata share of the fund in the Common Trust Fund Investment Pool at a single point in the fiscal year.

As the Town of Hanover Trustees of Trust Funds communicated to you in their March 18, 2004 mailing, this reallocation of income, gains and losses resulted in several adjustments to the individual fund balances. I have enclosed a copy of the Resolution unanimously approved by the Town of Hanover Trustees of Trust Funds at their June 15, 2004 meeting detailing the actions taken as a result of the funds review project. These adjustments, as appropriate, are reflected on the

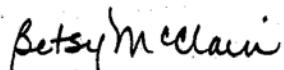
enclosed restated Form MS-9 for the fiscal years ended June 30, 2003 and June 30, 2004. In addition, please note the investment activity for the fiscal year ended June 30, 2004 reflects the annual totals of income, fees, gains and losses allocated on a monthly basis.

Over the past year, the Trustees of Trust Funds have made important strides in three specific areas:

1. Improved the allocation methodology of income, fees, and realized and unrealized gains and losses to individual trust fund balances;
2. Remedied the historic commingling of public and private expendable trust funds; and
3. Segregated expendable trust funds from perpetual (i.e., endowment-type) trust funds.

We all are looking forward to moving forward with these important accomplishments behind us, and new challenges ahead! If you have any questions regarding the enclosed, or if you require additional information, please give me a call.

Sincerely,



Elizabeth A. McClain
Director of Administrative Services

cc: Trustees of Trust Funds
J. Aubin, Hanover School District
J. Griffin, Town Manager
Plodzik & Sanderson

TOWN OF HANOVER TRUSTEES OF TRUST FUNDS

At the public meeting of the Town of Hanover Trustees of Trust Funds held Tuesday, June 15, 2004, at which meeting a quorum was present and voting, the following Resolution was MOVED by Trustee Gardent, and SECONDED by Trustee Draper, and approved unanimously :

In continued efforts to safeguard the trust funds of the Town of Hanover and to manage these funds prudently, the Town of Hanover Trustees of Trust Funds ("Trustees") have been working over the past year and more to (1) improve the allocation of income, fees, and realized and unrealized gains and losses to individual trust fund balances; (2) remedy the historic commingling of public and private expendable trust funds; and (3) segregate expendable trust funds from perpetual trust funds. The Trustees have instructed Town staff to conduct various analyses to render adequate information for them to make informed decisions on the actions that must be taken to address these issues. These analyses are complete, and the results of this work and the recommended actions have been shared with the Town Manager, Town Counsel, and the Office of the New Hampshire Attorney General. Based upon this work, the Trustees take the following action:

Be it resolved that the Trustees authorize Town staff to immediately initiate the following actions, to be completed no later than June 30, 2004, if possible:

- I. Action: Calculate the current (recalculated from the funds analysis) net market value of remaining funds in the **Capital Improvements from Land Sale Fund** and the **Land Acquisition and Capital Improvement Fund** and transfer one-half to the **Conservation Fund as authorized by RSA 36-A:5.I** and one-half to the **Land & Capital Improvements Fund** (as authorized by May 1999 Town Meeting action terminating the **Capital Improvements from Land Sale Fund** and the **Land Acquisition and Capital Improvements Fund**).

At May 31, 2004, the recalculated net market value in the **Capital Improvements from Land Sale Fund** and **Land Acquisition and Capital Improvement Fund** is \$31,913.00. On behalf of the Trustees of Trust Funds, Town staff will work with Fleet Bank (Columbia Management Group) to initiate a wire transfer in the amount of \$15,956.50 to the **Conservation Fund as authorized by RSA 36-A:5.I** held at the New Hampshire Public Deposit Investment Pool (NH PDIP); and a wire transfer to the Trustees of Trust Funds in the amount of \$15,956.50 for deposit to the existing **Land & Capital Improvements Fund** at the NH PDIP.

- II. Action: Request that a Town of Hanover check be issued to the Trustees of Trust Funds for \$1,530.00 to reimburse the Common Trust Fund Investment Pool for an over-distribution of market value from the **Justine B. Griffith Trust Fund** in May 2002 to support the construction of the Town's new Community and Senior Center.

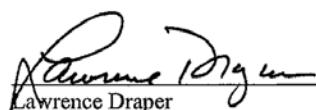
III. Action: Remove the expendable trust funds from the Common Investment Pool. Calculate the current (recalculated from the funds analysis) net market value of the following funds and have Fleet Bank (Columbia Management Group) initiate a wire transfer to the NH PDIP. Establish separate NH PDIP sub-accounts for each of these funds under the Town of Hanover Trustees of Trust Funds account already held at NH PDIP. Trust fund balances at May 31, 2004 to be moved are:

a. Fierro Memorial Fund	\$5,355.00
b. Stockbridge Fund	\$18,449.00
c. Rennie Nursing Service Fund	\$30,380.00
d. Hanover School District Handicapped Education Fund	\$89,510.00
e. Town of Hanover Termination Benefits Fund	\$83,735.00
f. George Ryder Post VFW Memorial Fund	\$148.00
g. Town of Hanover Land & Capital Improvements Fund	\$162,563.00

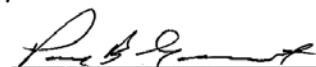
IV. Action: File revised MS-9 Reports with the State of New Hampshire for the fiscal year ended June 30, 2003 to reflect the recalculated market values, with copies sent to the Town's auditors and the Hanover School District.

V. Action: Request that Fleet Bank (Columbia Management Group) update its record of individual fund balances to tie back to the restated MS-9 at June 30, 2003. Monthly statements of income allocation (currently, no investments in equities) have been prepared by Town staff from July 1, 2003, going forward and will be shared with Columbia Management Group to facilitate the completion of the MS-9 for the fiscal year ending June 30, 2004.

Trustees of Trust Funds:


Lawrence Draper

Date: 6/15/04


Paul Gardent

Mark B. Severs

Date: 6/15/04

Date: 6/15/04

TOWN OF HANOVER TRUSTEES OF TRUST FUNDS

TIMELINE OF EVENTS REGARDING ACTIONS TO RESOLVE HISTORIC FUNDS VALUATION ISSUES

September 27, 2002	Letter to Charitable Trusts Division in the Office of NH Attorney General alerting them to Trustees exploring fund valuation issues and seeking guidance on same.	<u>Exhibit #1</u>
April 21, 2003	Meeting with Ms. Terry Knowles from the Charitable Trusts Division to discuss issues noted in September 27, 2002 letter to her office.	<u>Exhibit #2</u> (meeting confirmation w/o attachments) <u>Exhibit #3</u> (minutes from April 21, 2003 meeting)
May 1, 2003	Letter from Ms. Terry Knowles following up on April 21, 2003 meeting.	<u>Exhibit #4</u>
May 1, 2003	Meeting with Conservation Commission and Board of Selectmen to discuss fund valuation issues.	<u>Exhibit #5</u> (minutes from May 1, 2003 meeting)
June 26, 2003	Distributed Proposed Project Plan to solicit bids from other professionals to perform fund valuation analysis. Ultimately, no viable bids were received. This Proposed Project Plan was reviewed by members of the Conservation Commission prior to its distribution.	<u>Exhibit #6</u> (Proposed Project – Analysis of Valuation of Funds Disbursed from the Common Funds)
September 2, 2003	Trustees Meeting action charging Town staff to perform fund valuation analysis using the Proposed Project Plan for guidance on conducting this research. The Trustees worked with representatives from the Conservation Commission to derive this methodology who endorsed the Trustees' approach.	<u>Exhibit #7</u> (minutes from September 2, 2003 meeting)
Late Fall 2003/Early Winter 2004	Town staff presents results of fund valuation analysis to Trustees and Conservation Commission representative.	
March 18, 2004	Letter presenting results of fund valuation analysis to Charitable Trusts Division, requesting feedback and comments by April 30, 2004.	<u>Exhibit #8</u> (Letter without attachments)

March 24, 2004	Town staff left voicemail message and sent e-mail message to Charitable Trusts Division to confirm receipt of letter. [No reply from Charitable Trusts Division.]	<u>Exhibit #9 (copy of e-mail)</u>
April 30, 2004	Requested date to receive reply from Charitable Trusts Division to March 18, 2004 letter. [No reply from Charitable Trusts Division.]	
May 3, 2004	Trustee Draper sent e-mail to Charitable Trusts Division. [No reply from Charitable Trusts Division.]	<u>Exhibit #10 (copy of e-mail)</u>
May 26, 2004	Trustee Draper left voicemail message for Charitable Trusts Division requesting return call by May 28, 2004. [No reply from Charitable Trusts Division.]	
June 1, 2004	Trustees conduct conference call with Attorney T. Bates who advises to move forward with proposed action items resulting from fund analysis, despite lack of reply from Charitable Trusts Division.	

Attachment to June 1, 2004 Trustees of Trust Funds Meeting Minutes

EXHIBIT 1



September 27, 2002

Mr. Michael S. DeLucia
State of New Hampshire
Department of Attorney General
Charitable Trusts Unit
33 Capitol Street
Concord, NH 03301-6397

Dear Mr. DeLucia:

This letter is to alert your office to discussions currently underway among the Town of Hanover Board of Trustees of Trust Funds. If your office has any specific response or general guidance on these issues, please contact us. In any event, we will be in touch with your office as our work on these issues progresses.

In reviewing with Town staff and our investment fund manager the Town of Hanover's MS-9, Report of Trust & Capital Reserve Funds, for the Fiscal Year Ended June 30, 2002, the Trustees identified a potential issue regarding the termination of two trust funds in January 2001. The market value for these funds at June 30, 2000 was used to determine the amount to be disbursed from these funds including allocation of accumulated unrealized gains. One-half of the proceeds was used to create a separate Conservation Fund under the provisions of RSA 36-A: 5.1; the remainder was used to create a new expendable general trust fund, the Land and Capital Improvements Fund. The Trustees are currently taking steps to identify the annual unrealized gain or loss for the two terminated funds (from the date of the funds' inception to June 30, 2000) in order to assess the scope of any potential problem relating to an over-distribution of accumulated appreciation allocated to the terminated funds.

Unrelated to this specific issue, the Trustees have discussed the current situation in the Town of Hanover where public funds have been invested in the same investment pool as funds created with private monies. The Trustees are undertaking steps to segregate these funds and move the public funds, all of which are potentially fully expendable, to a different investment vehicle.

If you have any immediate questions or feedback, please contact Betsy McClain, Director of Administrative Services for the Town of Hanover, at 603-643-0705 or via e-mail at betsy.mcclain@hanovernh.org. As the Town staff person providing support to the Board of Trustees of Trust Funds, she will coordinate among the Trustees, as necessary.

Sincerely,

Trustee of Trust Funds
Sue

Town of Hanover
Board of Trustees of Trust Funds

cc: T. Bates, Esq., Mitchell & Bates
J. Griffin, Town Manager, Town of Hanover
T. Knowles, State of New Hampshire Department of Attorney General, Charitable
Trusts Unit

bcc: Trustees of Trust Funds

EXHIBIT 2



April 11, 2003

Ms. Terry M. Knowles
Charitable Trusts Unit
Office of the Attorney General
33 Capitol Street
Concord, NH 03301-6397

Dear Terry:

The Trustees are looking forward to their meeting with you on Monday, April 21, 2003 at 2:00 in Hanover Town Hall. Specifically, they are seeking your input on two issues: (a) the custody of the trust funds of the Dresden School District and (b) a discussion of the market value vs. book value distribution issue noted in their September 27, 2002 letter to your office.

For your review in advance of this meeting, they asked that I forward the following materials:

Draft February 6, 2003 Trustees Meeting Minutes
Draft March 12, 2003 Trustees Meeting Minutes
Copy of February 25, 2003 Letter from Dresden School District Attorney Bradley
re: Dresden Trust Funds
Recast portion of the FY2002 MS-9 with changes in the presentation of the allocation of the negative book value for 2 terminated funds and of the allocation basis of FMV
A schedule to accompany the recast FY2002 MS-9 with a detailed column-by-column description of the values

Please let me know if you have any questions or would like additional information in advance of your meeting with the Trustees. I look forward to seeing you then.

Sincerely,

Betsy
Elizabeth A. McClain
Director of Administrative Services

cc: Town of Hanover Trustees of Trust Funds (L. Draper, P. Gardent, M. Severs)

EXHIBIT 3

**TOWN OF HANOVER
TRUSTEES OF TRUST FUNDS**

Meeting Minutes
Monday, April 21, 2003 at 2:00 p.m.

In attendance: L. Draper (Trustee), P. Gardent (Trustee), M. Severs (Trustee), B. McClain (Town Administration)

Invited Guests: T. Knowles (Office of the NH Attorney General), M. Wrenn (Columbia Management Group)

Members of the Public: K. Assmus

The Trustees welcomed Ms. Knowles and thanked her for making the trip to Hanover to attend this meeting to discuss issues related (1) to the Dresden School District trust funds and (2) to the valuation of a January 2001 funds disbursement as described in the Trustees' September 27, 2002 letter to the Office of the NH Attorney General.

Dresden School District Trust Funds

The Trustees asked specifically whether they could act as Trustees for monies other than Town of Hanover and Hanover School District funds. Ms. Knowles replied that the Trustees have authority over both public and private funds. For private funds, the gift instrument or other controlling document should define the custody of the funds. For public funds, RSA 31:19-a outlines the process where expendable trust funds are created by the Town and overseen by the Trustees of Trust Funds. School districts have no statutory authority to hold monies; these funds are held in custody and administered by the Town's Trustees of Trust Funds.

Ms. Knowles noted that there are NH communities with inter-municipal districts where the school district has voted to specify which Town's Trustees of Trust Funds would hold custody of the school district's funds and administer them. John Stark Regional School District includes the Towns of Henniker and Weare; the district has voted that the Town of Weare Trustees of Trust Funds will have custody and administer the trust funds of the John Stark Regional School District.

Because the Dresden School District is an interstate compact, the issue is complicated due to the imposition of New Hampshire laws on an entity that is not entirely made up of New Hampshire residents. The interstate compact supersedes local laws. One solution is to amend the Dresden interstate compact to stipulate who will act as Trustees of Trust Funds and what laws would govern these funds. However, such a motion is quite onerous as it would take action in both of the Vermont and New Hampshire State Houses, as well as an act of the United States Congress.

Trustees noted that they were generally neutral on this issue and agreed that it is the responsibility of the Dresden School District to thoroughly vet this issue.

The discussion then turned to the custody of a specific private bequest in custody of the Dresden School District. Ms. Knowles indicated that a petition of *cy pres* could be filed with the court to determine the most appropriate custodian of these funds. She suggested that the Dresden School District be responsible for pursuing this course of action. She also indicated that her office stands ready to assist in this process. A possible outcome of this process might be that the court would rule to make the Hanover Trustees of Trust Funds the custodians of this particular fund. However, this ruling would only be binding for the individual petitioned fund, and it is expected that this fund will be used in its entirety with the near-term Dresden building project.

It was noted that the complexities of an interstate district must bleed over to other areas. The application of grants was noted specifically. Ms. Assmus mentioned that in those areas where the Dresden interstate compact is silent, New Hampshire laws prevail. Ms. Knowles stated that her office cannot render a legal opinion on the custody of these funds or the interpretation of the Dresden interstate compact.

Trustee Severs moved to send a letter to the Dresden School District noting that the Trustees met with Ms. Knowles and agreed that there were many unsettled issues regarding how the Dresden School District trust funds should be administered. This letter will outline that the Trustees would like a formal opinion from Town counsel and would like the School District to fund these costs. This motion was seconded by Trustee Gardent and passed unanimously. Ms. McClain agreed to draft this letter for the Trustees.

Valuation of January 2001 Disbursement to Establish Conservation Fund and the Land and Capital Improvements Fund

Ms. Knowles indicated that corrective action needed to be taken so that private and taxpayer money are not commingled in the same investment pool. Trustees agreed and indicated that such action should be taken by June 30, 2003.

As context, Ms. Knowles related that there were historically no issues surrounding capital gains and losses as all investments were Certificates of Deposit and other cash equivalents. With legislation changing to allow for more complex investments that shared in a potential higher yield (and the risk of market loss), the landscape has become increasingly more complex and harder for her office and the volunteer Boards of Trustees of Trust Funds to oversee. Ms. Knowles indicated that the management of the trust funds has so far outgrown the capabilities of some of the volunteer Boards of Trustees of Trust Funds, she is trying to change the law to allow Towns the option of engaging a professional fiduciary agent vs. the elected Trustees of Trust Funds.

Ms. Knowles acknowledges there have been many problems state-wide related to the allocation of income and capital gains and losses to pooled funds. Some Trustees throughout the State have attempted to allocate realized capital gains and losses based upon a self-devised formula, where older funds receive a proportionately larger share of the gains and losses than newer funds. Few municipalities have the resources to oversee this type of basic time-weighted allocation.

Ms. Knowles reinforced that everything on the core MS-9 and MS-10 forms should be reported at book value and that distributions should not be made based upon market

Minutes Approved at June 20, 2003 TTF Meeting

value. She illustrated that the disclosure of market value on the MS-9 and MS-10 is for informational purposes only and should not be used to determine the value of funds that may be disbursed.

In discussing the January 2001 disbursement from the terminated Land Acquisition and Capital Improvements Trust Fund and the Capital Improvements Restricted Purpose Fund, Ms. Knowles suggested that the book value of the funds at the date of the disbursement is what should have been disbursed. (The market value at June 30, 2000 is what was disbursed). The Trustees asked that Ms. Knowles confirm these instructions in writing; she indicated that she would try to get a letter to Trustees within a week or two. Trustees instructed Ms. McClain to derive the valuation (as Ms. Knowles suggested) to determine the impact of any over-disbursement to the Town of Hanover and to the Conservation Fund.

In closing, the Trustees generally discussed the nature of divesting from equities if unrealized capital gains are not distributed as part of the individual fund's appreciation available for use.

Other Business

Trustees approved the February 6, 2003 and March 12, 2003 Meeting Minutes.

Minutes Approved at June 20, 2003 TTF Meeting

EXHIBIT 4

ATTORNEY GENERAL
DEPARTMENT OF JUSTICE

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

PETER W. HEED
ATTORNEY GENERAL

STEPHEN J. JUDGE
DEPUTY ATTORNEY GENERAL



May 1, 2003

Betsy McClain
Director of Administrative Services
Town of Hanover
PO Box 483
Hanover NH 03755-0483

Re: April 21, 2003 Meeting with Town of Hanover

Dear Ms. McClain:

On April 21, 2003, I attended a meeting in the Town of Hanover for purposes of discussing several trust fund issues which have arisen.

At that meeting, I was advised the 1999 Hanover town meeting terminated two expendable trust funds, the Land Acquisition and Capital Improvement Restricted Purpose Fund and the Capital Improvement Restricted Purpose Fund. At the time of the termination it was voted to transfer 50% of the proceeds to a conservation fund and the remaining 50% to a new expendable trust fund known as the Land and Capital Improvements Fund.

On the date of the town meeting the total amount in these funds was \$120,000. When the funds were actually disbursed two years later, they had lost a substantial amount of their original value due to the downturn in the stock market.

These monies were invested in common with privately donated funds. You have asked whether or not the original \$120,000 may be distributed to the newly created funds and the losses distributed proportionately to the remaining private funds. The answer to your question is No.

New Hampshire statutes do not permit the commingling of public and private dollars for investment purposes. Private trusts are established for specific purposes and may not be utilized for any purpose contrary to the original gift instrument. Therefore, it will be necessary for the Trustees of Trust Funds to distribute to the Town of Hanover only the actual value of the public money as of the date of distribution and not as of the date of the vote.

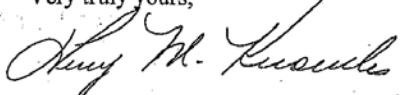
www.state.nh.us/nhdoj/CHARITABLE/char.html

Telephone 603-271-3658 • FAX 603-271-2110 • TDD Access: Relay NH 1-800-735-2964

Betsy McClain
May 1, 2003
Page 2

If I can be of any further assistance, please advise.

Very truly yours,



Terry M. Knowles, Registrar
Charitable Trusts Unit
(603) 271-3591
tknowles@doj.state.nh.us

TMK:ab

EXHIBIT 5

**TOWN OF HANOVER
TRUSTEES OF TRUST FUNDS**

**Meeting Minutes
Thursday, May 1, 2003 at 7:30 a.m.**

In attendance:

Trustees of Trust Funds

Larry Draper
Paul Gardent
Mark Severs
Conservation Commission
Robin Carpenter, Vice
Chairman
Ed Chamberlain
Doug McIlroy
Anne Morris
Judy Reeve, Chairman

Board of Selectmen

Bill Baschnagel
Kate Connolly
Town Staff
Julia Griffin
Betsy McClain
Vicki Smith
Member of the Public
Kari Assmus

Trustee Gardent opened the meeting with a general definition of the role of the Trustees of Trust Funds. He explained that they operate under the guidance from the Charitable Trusts Unit in the State of New Hampshire Department of Attorney General. The Trustees are neutral on how the funds are used; the Trustees' role is to provide stewardship of the funds to insure that the wishes of private individuals who have given funds are met and that the actions taken by the legislative body at Town Meeting are executed in accordance with the language of the vote. It was noted that last year the Trustees reviewed the warrant article for clarity of language but, as a body, do not propose or vote upon articles that appear on the warrant.

The bulk of the meeting was spent discussing the issues surrounding a possible over-distribution to the Conservation Fund and to the Town of Hanover from the terminated Land Acquisition and Capital Improvements Trust Fund and the Capital Improvements Restricted Purpose Fund. The action was authorized at the May 1999 Town Meeting and effected in January 2001 based upon market values (included unrealized capital gains) at June 30, 2000. The Trustees have been instructed by the Office of the NH Attorney General that the disbursement from these funds should have been the book value (not including unrealized capital gains) at the date of disbursement (at January 2001). The difference renders a proposed \$32,919.15 over-distribution to the Conservation Fund and a proposed \$32,919.15 over-distribution to the Land and Capital Improvements Fund. An e-mail shared with Conservation Commission and the Hanover Board of Selectmen further outlining this issue is attached as an addendum to these minutes.

The question was posed whether the Conservation Commission needs to vote to return the funds to the Town of Hanover and, if they returned funds, whether this would count against their \$50,000 allocation they are authorized to spend each year without Town Meeting authority.

Trustees outlined the difficulties that were presented in commingling expendable and perpetual trust funds, compounded by a rudimentary method of income and gains allocation that does not value length of time in the investment pool. Consequently, when large, relatively new funds were terminated and withdrawn from the investment pool, an inequitable harm was done to the remaining funds in the investment pool. The core question is how this situation - which the Trustees of Trust Funds regret - is resolved without harming the other remaining funds.

R. Carpenter noted that a time weighted allocation of realized gains and losses is not difficult to do and would render more accurate results. Trustees agreed that the results would be more accurate but that because of the rather modest size of the portfolio is not cost-effective (the software costs and/or bank fees would be more than the value gained).

The complexities of these issues are not lost on the Office of the NH Attorney General who has been unwilling to move actively on these issues state-wide and has not responded to the Trustees' September 27, 2002 letter to their office requesting guidance on this specific issue. Terry Knowles, from the Office of the NH Attorney General, has recently agreed to write a letter to the Trustees stipulating the valuation method to be used for the disbursement from these two terminated funds, but this letter is not yet in hand.

The Conservation Commission shared some historical perspective on some difficulties in obtaining meaningful information from Town staff on what funds are available to them. A. Morris offered to provide a history of various Conservation Commission transactions and fund activity to the Trustees.

As the meeting drew to a close, the following action plan was devised:

Trustees will wait and review the letter from the Office of the NH Attorney General

Trustees will keep Conservation Commission apprised of progress on issue by inviting sub-committee to attend upcoming Trustee meetings

Trustees will decide upon the most equitable approach given AG's and other input; Trustees will discuss this approach with the Conservation Commission prior to issuing any formal letter

Trustees will issue a formal letter stipulating outcome - either confirming that the disbursement will stand as it is; or formally requesting that funds be returned from the Conservation Commission and from the Town of Hanover

Minutes Approved at June 20, 2003 TTF Meeting

-----Original Message-----

From: Betsy McClain [mailto:betsy.mcclain@hanovernh.org]
Sent: Tuesday, April 22, 2003 5:33 PM
To: 'Julia Griffin (E-mail)'; 'Vicki Smith'
Cc: 'jonathan.edwards@hanovernh.org'; Paul Gardent (Paul.Gardent@Hitchcock.org); Lawrence R Draper (Lawrence_R_Draper@fleet.com); Mark Severs (mark.b.severs@rssmb.com)
Subject: Trustees of Trust Funds - update on terminated funds issue

As you both know, the Trustees of Trust Funds have been wrestling over the past many months with an issue concerning the amount of money that was disbursed from the Land Acquisition & Capital Improvement Fund and the Capital Improvements from Land Sale Fund to create the Conservation Fund and the new Land & Capital Improvements Fund. In a nutshell, the fair "market" value at 6/30/2000 was disbursed in January 2001 – this resulted in the disbursement of unrealized capital gains that were never realized in the falling market. In order to make this over-distribution up, other funds have been 'penalized' by a contraction in their book value.

Yesterday afternoon the Trustees met with Terry Knowles from the NH Attorney General's Office to discuss this and other matters. Her clear opinion is that we should recalculate the disbursement at the "book" value at the date of distribution to arrive at what the Conservation Fund and the new Land & Capital Improvements Fund should have received upon the termination of the 2 funds as voted in May 1999. I've done some preliminary calculations that illustrate that if we follow Terry's instructions, the Conservation Fund and the new Land & Capital Improvements Fund both received \$33k more than they were due. Per Terry, this amount needs to be recovered in order to 'right' the individual trust funds who have had their values decline to offset the overdistribution from the investment pool.

The Trustees of Trust Funds are awaiting a written statement from the NH Attorney General's Office prior to scheduling a session with the Board of Selectmen to review this issue. This letter should be in hand by the end of next week. My sense is they want to be sure they have definitive instructions from this office prior to formally requesting the return of any over-distributed funds. That said, they wanted to be sure that both the Conservation Commission and the Town were fully aware that this issue was to unfold in the near future. And, you should know that a member of the public attended yesterday's meeting where this issue was discussed at length.

If there is a silver lining to any of this, it is that this year's allocation of land use change tax proceeds to the Conservation Fund and the Land & Capital Improvements Fund is quite large – given this year's deposit and the size of these funds in general, this issue shouldn't negatively impact the articles on this year's warrant. I know this was a concern of the citizen that attended yesterday's meeting (specifically, re: the warrant article to appropriate up to \$80k from the Conservation Fund to purchase a parcel of land).

I'll be in touch as soon as I have more info to share. Certainly, please let me know if you have questions in the meantime.

/ Betsy

Minutes Approved at June 20, 2003 TTF Meeting

EXHIBIT 6

**TOWN OF HANOVER
TRUSTEES OF TRUST FUNDS**

**Proposed Project
Analysis of Valuation of Funds Disbursed from the Common Funds**

Project Summary

The Hanover Trustees of Trust Funds wish to have an independent analysis and evaluation to determine the fair value of trust funds invested in a "Common Fund", including the appropriate termination value of certain public funds. This analysis should be based on the fair and appropriate disbursement value of these public funds utilizing commonly accepted trust fund accounting principles, including the appropriate allocation of income, realized gains, and unrealized gains to individual funds on a time weighted basis.

The analysis should be completed no later than September 30, 2003.

Background

Since approximately 1991, the Trustees of Trust Funds have invested certain Town of Hanover public funds along with other private trust funds in a "Common Fund" investing in fixed income and equity investments. In January 2001 two public funds which were invested in the common investment funds (The "Land Acquisition and Capital Improvement Fund" and the "Capital Improvement from Land Sale Fund") were terminated in order to create the "Conservation Fund" and the "Land and Capital Improvement Fund". The amounts disbursed from these two funds were based upon total principal market value plus the total income balance as of June 30, 2000. The allocation of accrued unrealized gains was based on this principle value including gains, which may have been earned prior to the establishment of these terminated funds.

The Trustees have recognized that the allocation of income and realized and unrealized gains/losses based solely on principal value may not fairly reflect the prior earnings of funds that were established at an earlier date or the appropriate allocation of subsequent earnings. Further, the Trustees are concerned that appropriate trust fund accounting should reflect ongoing reinvestment and allocation of earnings on a time weighted basis to establish the total value of the funds. It has been recognized that state guidelines, with regard to the recording and disbursement of funds, are ambiguous. While indicating that "contributions and withdrawals shall be made on the basis of market value" (NH RSA 31:29), New

Hampshire annual reporting forms do not reflect the appropriate allocation of income and capital gains and losses to pooled funds on an ongoing basis to determine individual fund values.

Methodology

The objective of the proposed Project is to reasonably determine the fair termination and distribution values of the Town of Hanover funds from the "Common Fund". This will include the two funds terminated in January 2001 (the "Land Acquisition and Capital Improvement Fund" and the "Capital Improvement from Land Sale Fund"), as well as a number of other public funds currently invested in the "Common Fund" [see Appendix 1] and a number of expendable trust funds created with private funds [see Appendix 2]. Utilizing the available records, the analysis should determine the fair market value at the termination date of the "Land Acquisition and Capital Improvement Fund" and the "Capital Improvement Restricted Fund". The analysis should also provide "actual values" (as described in the following paragraph) for trust funds within the "Common Fund" as of June 30, 2003.

The methodology should determine the fair market value, or "actual value", of funds already existing at the time of contribution of the Town of Hanover funds to the "Common Fund", including accrued income and realized and unrealized gains and losses. The analysis should take into consideration appropriate weighting of income earnings, realized gains, and unrealized gains for each month to calculate a continuing fund value. In addition, the analysis should take into consideration fund additions and withdrawals for each fund. Finally, appropriate allocation of management expenses should be considered.

It is recognized that the books and records may not allow exact calculations based on specific dates of the individual fund values and fund earnings. It is understood that the calculations will be made with the best information and estimates available, often referring to monthly performance calculations. Upon completion, the analysis should provide a fair approximation of the termination values of the "Land Acquisition and Capital Improvement Fund" and the "Capital Improvement Restricted Fund". In addition, it should provide the basis for determining the fair distribution value of the remaining public funds currently invested in the "Common Fund" as of June 30, 2003. The analysis should provide a description of the methodology used and a clear tracking of the basis for the calculations and the resulting values.

Engagement Letter

Prior to undertaking this work, the prospective consultant should provide:

- A brief summary of experience and capabilities to perform the proposed analysis,
- A statement indicating understanding of and agreement with the stated methodology including any required clarifications,
- A statement regarding work to be performed by Town staff,
- A statement regarding timeline and estimated completion date,
- A statement of proposed fees and expenses to complete the analysis.

Prior to beginning work, the consultant will meet with the Trustees to review the specific terms of the engagement to insure a mutual understanding of the scope of work to be performed. Trustees and Town staff are available to provide information regarding background and available books and record.

**TOWN OF HANOVER
TRUSTEES OF TRUST FUNDS**

**Proposed Project
Analysis of Valuation of Funds Dispersed from the Common Funds**

**APPENDIX #1 - PUBLIC EXPENDABLE TRUST FUNDS INVESTED IN
COMMON INVESTMENT POOL WITH PRIVATE TRUST FUNDS**

Date of Creation	Source of Public Funds	Purpose of Expendable Trust Fund
1987	Hanover School District	Special Education
1987	Town of Hanover	Sand and Gravel Reserve
1990	Town of Hanover	Land Acquisition and Capital Improvement
1994	Town of Hanover	Capital Improvement from Land Sale
1994	Town of Hanover	Termination Benefits
2001	Town of Hanover	Land and Capital Improvements

**TOWN OF HANOVER
TRUSTEES OF TRUST FUNDS**

**Proposed Project
Analysis of Valuation of Funds Dispersed from the Common Funds**

**APPENDIX #2 - PRIVATE EXPENDABLE TRUST FUNDS INVESTED IN
COMMON INVESTMENT POOL WITH PRIVATE TRUST FUNDS**

Date of Creation	Source of Public Funds	Purpose of Expendable Trust Fund
1972	Fierro Memorial	Fire Station Refurbishments
1980	Stockbridge Fund	Construction of a Community Center
1983	Lawrence Rennie Estate	Visiting Nurse Service
2000	George Ryder Post VFW#71	Veterans Memorial Commemoration
2001	Justine Griffith Trust	Construction of a Senior Center

**TOWN OF HANOVER
TRUSTEES OF TRUST FUNDS**

**Meeting Minutes
Tuesday, September 2, 2003 at 7:30 a.m.**

In attendance: L. Draper (Trustee), P. Gardent (Trustee), M. Severs (Trustee), B. McClain (Town Administration)

Invited Guests: R. Carpenter from the Hanover Conservation Commission

Determine Acceptable Methodology for Accurate Funds Valuation of the 2 Funds

Terminated at May 1999 Town Meeting

The meeting opened with some brief comments on the schedules prepared by Ms. McClain last October to arrive at a more equitable allocation of accumulated unrealized gains and losses to individual funds. Trustee Gardent emphasized the importance of having a solid understanding of the starting point for this analysis. Specifically, how allocations of income, gains and losses were allocated historically to determine the 'base' book value for the analysis. [Note: investments in equities, and therefore unrealized gains/losses, were not made until early 1990's, which will be after the starting point.] Trustee Gardent indicated that the analysis should begin at the point when public funds were invested jointly with private funds. Ms. McClain believed this first occurred in the early-mid 1980's.

Trustees discussed the frequency that Ms. McClain should allocate unrealized gains and losses. Her earlier analysis allocated unrealized gains and losses on an annual basis. Trustees indicated for years where there were no withdrawals or deposits, annual allocations are adequate. Where there was in/out activity, the unrealized gains and losses should be allocated in the month the deposit or withdrawal occurred – as well as an annual end-of-year allocation.

Mr. Carpenter raised the question whether the allocation of unrealized gains or losses should occur when the deposit or withdrawal should have occurred vs. the actual date of the transaction. Trustees agreed that Ms. McClain was to (1) use the actual date of the transaction to allocate the unrealized gains or losses, (2) determine whether or not the transaction was timely per statutory requirements, (3) if the transaction is determined to be not timely, note these instances and quantify the impact of any delay.

There was consensus that an issue exists with the timeliness of the initial disbursement from the terminated trust funds to establish the Conservation Commission Fund. Trustees did not want to mire down the analysis of the funds with an attempt to value the funds at the date a transaction should have occurred vs. the actual date. However, Trustees acknowledged that fund disbursements and deposits must be made on a timely basis, and they will review current processes to insure that this happens without fail.

Trustee Gardent proposed the following motion:

Trustees request that Town Staff proceed with the funds valuation analysis as outlined in the Request for Proposal for Independent Review Services (sent to potential bidders on June 26, 2003), going back to the date when public funds were first commingled with private funds in a common investment pool. Secondly, and concurrently, Town Staff will continue to work to analyze and clarify issues related to authorization and timing of deposits and disbursements of public funds. The intent being that when these 2 tasks are completed, the Trustees of Trust Funds will have a firm understanding of the fair allocation of funds - and any issues related to authorization and timing - as a basis for final action.

Trustee Severs seconded the motion. There was general discussion on the intent of the motion and whether the motion should include declarative language on what action(s) would be taken. The June 20, 2003 Trustees of Trust Funds Meeting Minutes were referenced to indicate that the analysis was to precede and inform the final action taken by the Trustees of Trust Funds regarding the 2 terminated funds. After some additional discussion trying to clarify the wording and breadth of the motion, the motion passed.

Ms. McClain asked for suggestions on how the Trustees would like the analysis results presented. Trustees reiterated that the starting point of the funds values should be spelled out. From there, a single month which includes representative activity should be explicated. This detailed review of a single month would serve to support the methodology behind a summary report.

(Note: Due to other commitments, Trustee Gardent excused himself from the meeting at this point.)

Review of Annual Trust Fund Reports (MS-9 and MS-10)

Trustees Draper and Severs indicated that they had a chance to review the MS-9, Report of Trust and Capital Reserve Funds, and the MS-10, Report of Common Trust Fund Investments, routed to Trustees in advance of the meeting. Trustee Severs noted that if the funds analysis triggers an action that redistributes investment pool earnings and/or unrealized capital appreciation, revised reports can be filed with the State. The forms were signed by Trustees Draper and Severs (a majority of the Trustees) and will be mailed to the State later in the day.

Other Business

Trustees approved minutes from July 31, 2003 meeting.

Trustees requested that Ms. McClain contact Mr. Bradley to check on the status of the Hanover School District covering the expenses of an attorney working on behalf of the Trustees to render an opinion on whether it's legal, advisable, etc. for the Town of Hanover Trustees of Trust Funds to accept fiduciary and stewardship responsibility for the Dresden School District Trust Funds.

Trustees approved the deposit of \$25,000 from the Hanover School District for deposit into the School Buildings Maintenance Fund currently held at the New Hampshire Public Deposit Investment Pool. This deposit was authorized at the March 12, 2003 Hanover School District Annual Meeting.

Minutes Approved at February 24, 2004 Trustees Meeting

EXHIBIT 8



HANOVER, NEW HAMPSHIRE 03755
P.O. BOX 483 603/643-4123

March 18, 2004

Ms. Terry M. Knowles, Registrar
Charitable Trusts Unit
Office of the Attorney General
33 Capitol Street
Concord, NH 03301-6397

Dear Terry:

As you know, the Town of Hanover Trustees of Trust Funds have been working through the issues related to the fair and appropriate disbursement of income, realized gains and losses, and unrealized gains and losses to individual funds invested in the Common Trust Fund Investment Pool. In September 2002, we wrote a letter to the Office of the Attorney General outlining a specific issue with the termination of two expendable trust funds in January 2001, a copy of this letter is attached. You also attended a meeting with the Trustees on April 21, 2003 to discuss this issue, and to discuss in general State reporting of funds invested in equities and similar investment vehicles.

After a detailed analysis of trust funds going back to 1980, we now have the necessary data compiled to move forward with some remedy. Attached for your information is a memo to us from Town staff outlining the work done and a series of proposed actions.

We seek your feedback and general comments on these actions by April 30, 2004 so that we may take any necessary action well in advance of the end of the Town's fiscal year at June 30, 2004. It is our strong hope that you reply in writing with your comments for available reference to future Town of Hanover Trustees of Trust Funds. We would appreciate knowing whether you see any issues with moving forward with the several proposed actions. Given the time these issues have been on the table, we are anxious to take action and move beyond them.

Thank you again for your continued assistance with this and other matters.

Sincerely,

Trustees of Trust Funds

BNLG

Town of Hanover
Board of Trustees of Trust Funds

cc: T. Bates, Esq., Mitchell & Bates
J. Griffin, Town Manager, Town of Hanover

EXHIBIT 9

-----Original Message-----

From: Betsy McClain [mailto:betsy.mcclain@hanovernh.org]
Sent: Wednesday, March 24, 2004 11:53 AM
To: 'Knowles, Terry'
Subject: phone call follow-up

Hi Terry -

This e-mail is a quick follow-up to my voicemail message to confirm that you have received the package mailed on behalf of the Town of Hanover Trustees of Trust Funds late last week. This package consists of detailed schedules outlining the recalculation of individual fund market values based on a modified time-weighted approach along with a synopsis of the issues explored over the last year by our Trustees. Also included is a list I prepared for the Trustees of proposed action items. The Trustees are looking for your input on these action items prior to executing them.

If you have any questions or need anything further from me to respond back to the Trustees, please do not hesitate to contact me. Thanks for your help.

Betsy McClain
Director of Administrative Services
Town of Hanover
P.O. Box 483
Hanover, NH 03755
603-643-0705
603-643-1720 (fax)

EXHIBIT 10

Betsy McClain

From: DRAPER, LAWRENCE R [LAWRENCE_R_DRAPER@fleet.com]
Int: Monday, May 03, 2004 4:57 PM
To: 'lknowles@doj.state.nh.us'
Cc: 'mark.b.severs@smithbarney.com'; 'paul.gardent@hitchcock.org';
Subject: 'betsy.mcclain@hanovernh.org'
Hanover, NH Trustees of Trust Funds

Terry - I am just following up with you regarding the letter Betsy McClain sent to you on behalf of the Trustees dated March 18, 2004. The other Trustees and I are hopeful you will have an opportunity to review and respond to the detailed analysis of our trust funds included with the correspondence that related to the fair and appropriate valuations of the various trust funds. As you know this involves, in part, the termination of two expendable trust funds in January 2001.

The Trustees next meet June 1, 2004. Prior to that meeting, we would appreciate your comments and feedback on the analysis and resulting actions we plan to take. Your response will provide us the necessary time required to take appropriate action steps in advance fiscal year end, June 30, 2004.

Thank you for your time and consideration.

Larry

Lawrence R. Draper
Fleet Private Clients Group
13 South Main Street
Hanover, NH 03755
ph:603-643-6489
fax: 603-643-1409
Mail stop: NH/DE/02601A

MEMORANDUM

TO: Town of Hanover Trustees of Trust Funds
FROM: Betsy McClain, Director of Administrative Services
DATE: March 17, 2004
SUBJECT: Common Investment Pool – Individual Fund Market Value Analysis

As requested by the Trustees of Trust Funds, this memo outlines the work performed by Town staff related to an analysis and determination of the fair value of trust funds invested in the "Common Fund" investment pool, including the appropriate termination value of certain public funds. This work was done under the direction of the Trustees of Trust Funds using guidelines specified in the Town of Hanover Trustees of Trust Funds Proposed Project Plan prepared in June 2003 to guide this work (Appendix 1).

Background

The liquidation of two funds, the Land Acquisition & Capital Improvement Fund and the Capital Improvements from Land Sale Fund, in January 2001 pursuant to a May 1999 Town Meeting action created negative book values for each of these two funds. Principal and Income cash balances were disbursed from these two funds based on fund values reported to the State of New Hampshire on Form MS-9 "Report of Trust and Capital Reserve Funds" for the 12 month period ended June 30, 2000 (nearly seven months prior to the distribution date). These negative book values were reported to the State with the June 30, 2001 MS-9. With the MS-9 filed with the State for the fiscal year ended June 30, 2002, these negative book values totaling <\$107,616.58> were brought to zero by allocating the unrealized loss among the remaining funds. In effect, this allocation eroded the investment gains of many long-standing perpetual funds and raised several questions about the make-up and allocation methodology within the Common Trust Fund Investment Pool.

This situation brought to light 2 issues: (1) the commingling of public and private expendable trust funds with a variable investment horizon with non-expendable trust funds with a perpetual investment horizon; and (2) the lack of time-weighting to more fairly allocate gains, losses, and income to the individual fund balances.

Analysis Methodology

Trustees asked that Town staff restate the individual fund balances in the Common Investment Pool to reflect a modified time-weighted approach. Beginning with the Report of Common Trust Funds for the fiscal year ended December 31, 1980, Town staff restated the market values (combining the market value of both Principal and Income into a single fund total market value) of the individual funds on an annual basis, at the very least, and on a monthly basis whenever there were significant deposits or withdrawals from any of the funds. For each period reported (be it a 12-month fiscal year or a single month), the realized and unrealized capital gains/losses reported for this period, the income earned for this period, and the bank fees assessed for this

period were allocated based on a fund's pro-rata share of the market value of the total pool at the beginning of the reported period. These schedules are attached for your review (Appendix 2).

Instead of allocating annual accumulations of income, fees, gains and losses at the end of the fiscal year based on the percentage of the fund's beginning market value to the investment pool's total beginning market value, the analysis presents allocations to the individual funds on a more frequent basis, reflecting the impact of significant activity occurring throughout any given fiscal year.

Investment statements, Trustee Meeting minutes, and Town Meeting minutes were reviewed to reconstruct the additions and disbursements among individual fund balances within the Common Trust Funds. For each attached schedule, the Total Ending Market Value Balance ties back to available investment statements for the period.

Analysis Findings

From the period ended December 31, 1980 through the fiscal year ended June 30, 1992, the Trustees invested exclusively in Certificates of Deposits, Treasury bills, and money market accounts. With little exception, all activity occurred right before or right after the end of the fiscal year; therefore, the past practice of allocating income and fees on an annual basis had little impact to the individual fund balances.

Beginning in 1993 and 1994, Trustees invested the common trust funds in various mutual funds. Coincident with this shift in investment strategy, there also was an increase in the number and magnitude of expendable trust funds created with public funds. Presumably, these funds were commingled with the private perpetual trust funds in equity vehicles in order to take advantage of potentially larger fund growth and income earnings.

Because these public expendable trust funds had significant withdrawals and deposits throughout an individual fiscal year, there were instances where a fund was terminated during the fiscal year but awarded a full 12-months' of income, fees, gains and losses. By restating the market balances of the funds under a modified time-weighting, there are some significant changes in the individual fund balances. In summary, we find a change in the market value of certain expendable trust funds where withdrawals occurred throughout the fiscal year, and a change (or, perhaps more accurately, a replenishment) in the market value of the perpetual trust funds and certain other expendable trust funds, based upon a time-weighted allocation of market returns.

Proposed Next Steps

1. The funds analysis indicates market value of the funds terminated in January 2001 was in total more than the actual cash disbursed to close out these funds. In detail, \$42,799 in market value remained at January 31, 2001 in the Capital Improvements from Land Sale Fund upon termination of the fund; while a negative balance of <\$3,435> in the January 31, 2001 market value of the Land Acquisition & Capital Improvement Fund indicates a cash distribution above the fund's market value upon termination of the fund. The net balance in these funds of \$39,364 has been carried forward and reflects a June 30, 2003 net market value of \$31,610.

Action: Calculate the current net market value of these remaining funds and transfer one-half to the Conservation Commission and one-half to the Land & Capital Improvements Fund (as authorized by May 1999 Town Meeting action terminating the Capital

Improvements from Land Sale Fund and the Land Acquisition and Capital Improvements Fund).

2. The \$40,000 initial distribution of the Justine B. Griffith Trust was deposited with the Common Trust Fund Investment Pool in March 2001; the full principal amount of this bequest was disbursed from the fund in May 2002 for deposit into the RW Black Community & Senior Center Fund (for construction of a new community center) at the NH Public Deposit Investment Pool. During the time these funds were held in the Common Trust Fund Investment Pool, the fund's market value dropped from \$40,000 to \$38,470. This net fund market value loss needs to be paid back to the Common Trust Fund Investment Pool by the Town of Hanover (as these funds were ultimately requisitioned from the NH PDIP to construct the RW Black Community & Senior Center. Action: The Town of Hanover issues a check to the Trustees of Trust Funds for \$1,530.
3. Transfer all expendable trust funds out of the Common Trust Fund Investment Pool held at Columbia Management Group for deposit to more liquid, lower/no-risk funds at the NH PDIP. These expendable trust funds are:
 - a. Fierro Memorial Fund
 - b. Stockbridge Fund
 - c. Rennie Nursing Service Fund
 - d. Hanover School District Handicapped Education Fund
 - e. Town of Hanover Termination Benefits Fund
 - f. George Ryder Post VFW Memorial Fund
 - g. Town of Hanover Land & Capital Improvements FundAt June 30, 2003, these funds comprised over 60% of the market value of the total Common Trust Fund Investment Pool.
Action: Calculate the current net market value of these remaining funds and have Columbia Management Group issue a check to the NH PDIP. Establish separate NH PDIP sub-accounts for each of these funds under the Town of Hanover Trustees of Trust Funds account already held at NH PDIP.
4. Action: Revised MS-9 Reports for the fiscal year ended June 30, 2003 should be filed with the State of New Hampshire, with copies sent to the Town's auditors and the Hanover School District.
5. Action: Columbia Management Group needs to update its record of individual fund balances to tie back to the restated MS-9 at June 30, 2003. Monthly statements of income allocation (currently, no investments in equities) should be prepared by Town staff from July 1, 2003, going forward and shared with Columbia Management Group.
6. Action: Trustees adopt revised Investment Strategy given the pending transfer of significant assets from Columbia Management Group.
7. Action: Trustees send letter to Office of NH Attorney General requesting feedback and guidance prior to implementing any of these actions.

Lapse of Authority to Disburse Funds – April 1, 2004 Letter from Municipal Attorney

MITCHELL & BATES PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW
25 BEACON STREET EAST
LACONIA, NEW HAMPSHIRE 03246

WALTER L. MITCHELL
TIMOTHY BATES
JUDITH E. WHITELAW
LAURA A. SPECTOR

TELEPHONE (603) 524-3885
FACSIMILE (603) 524-0745

April 1, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

Elizabeth A. McClain, Director
Administrative Services
P.O. Box 483
Hanover, NH 03755

Re: Lapse of Authority to Disburse from Permanent Funds

Dear Betsy:

This letter will respond to the questions raised in your letter dated March 22, 2004. As we discussed, it is my opinion that a town meeting vote to authorize the withdrawal of monies from a permanent fund, such as a town-created expendable trust fund or capital reserve fund, is subject the lapse provisions found in RSA 32:7. Under the statute, one of the circumstances that will prevent a lapse of the appropriation/withdrawal authority is where the amount has, prior to the end of that fiscal year, become encumbered by a legally enforceable obligation, created by contract or otherwise, to any person for the expenditure of the amount appropriated. See RSA 32:7, I.

Fortunately, in each of the three instances you describe in your letter it is clear that the monies appropriated from the relevant town funds were, indeed, encumbered within the meaning of RSA 32:7, I prior to the end of the applicable fiscal year. It is therefore my opinion that the appropriation of those funds has not lapsed, and that the trustees of trust funds may lawfully disburse those funds for their respective intended purposes upon the presentation of such supporting documentation as the trustees may reasonably require.

On behalf of the trustees, you also ask for my opinion as to when it would be "too late" for these funds to be disbursed. It is my opinion that as long as the original appropriation made by the town meeting has not lapsed pursuant to RSA 32:7, I (or through the operation of some other of the statutory lapse provisions) the trustees have the authority, and the obligation, to make the requested disbursement upon the presentation of proper supporting documentation. That is to say, the authority to disburse is coextensive with the continued vitality of the appropriation. Where, as here, the funds have been encumbered by the creation of a legally enforceable obligation to expend all or part of those funds, the trustees' authority and obligation to disburse would continue unless and until the obligation was fulfilled, or cancelled.

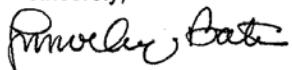
Elizabeth A. McClain, Director
April 1, 2004
Page 2

The trustees also seek guidance about what documentation they should require from the town before disbursing funds. I must respectfully decline to offer specific views about this, as I think it is a question that should more appropriately be put to the Division of Charitable Trusts of the Attorney General's Office. As a general matter, I do not think the trustees can go too far wrong if the documents presented would appear to a reasonably prudent person to establish that the request for disbursement is, in fact, for the purpose for which the withdrawal from the fund was voted by the town meeting. Exactly what documentation may be reasonably requested would likely vary from one situation to the next.

I hope this opinion is responsive to your inquiry. Please let me know if we may offer any further assistance with this matter.

Thank you.

Sincerely,



Timothy Bates
tblaw@metrocast.net

TB/dbm

cc: Julia N. Griffin, Town Manager

MITCHELL & BATES, PROFESSIONAL ASSOCIATION • Attorneys at Law